

SPECIAL LAWS

—OF—

MINNESOTA.

PASSED AND APPROVED AT THE TWENTY-SIXTH SESSION OF THE STATE LEGISLATURE, COMMENCING JANUARY EIGHTH, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-NINE, AND TERMINATING APRIL TWENTY-THIRD, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-NINE.

CHAPTER I.

[H. F. No. 322.]

AN ACT TO INCORPORATE THE CITY OF WEST SAINT PAUL.

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

CHAPTER I.

CITY WARDS AND BOUNDARIES.

SECTION 1. All the district of country in the county of Dakota contained within the limits and boundaries hereinafter described, shall be a city of the name of "West Saint Paul," and the people now inhabiting, and those who shall hereafter inhabit, the district of country hereinafter described, shall be a municipal corporation by the name of West Saint Paul, and by that name shall sue and be sued, complain and defend in any court, make and use a common seal and alter it at pleasure, and take, hold, purchase, lease and convey such real, personal and mixed estate as the purpose of this corporation may require within or without the limits aforesaid; shall be capable of contracting and being contracted with, and shall have the general powers possessed by municipal corporations at common law; and, in addition

thereto, shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession.

SEC. 2. The district of country aforesaid constituting the city of West Saint Paul, and the limits and boundaries thereof, shall be as follows:

All of sections numbered seventeen (17), eighteen (18), nineteen (19), twenty (20), and the north one-half ($\frac{1}{2}$) of sections twenty-nine (29) and thirty (30), the same being formerly in and comprising a part of the city of South St. Paul, Dakota county, Minnesota.

SEC. 3. The said city shall be divided into three (3) wards, to be called the First (1st), Second (2nd) and Third (3rd) wards, limited and bounded as follows:

The First ward shall consist of the easterly three-fourths ($E \frac{3}{4}$) of sections seventeen (17), twenty (20), and of the north half ($N \frac{1}{2}$) of section twenty-nine (29).

The Second ward shall embrace the westerly one-fourth ($W \frac{1}{4}$) of sections seventeen (17) and twenty (20); the west half ($W \frac{1}{2}$) of the northwest quarter ($NW \frac{1}{4}$) of section twenty-nine (29); also the easterly one-half ($E \frac{1}{2}$) of sections eighteen (18) and nineteen (19); the northeast quarter ($NE \frac{1}{4}$) of section thirty (30), and the southwest quarter ($SW \frac{1}{4}$) of the southeast quarter ($SE \frac{1}{4}$) of section seven (7).

The Third ward shall embrace the west one-half ($W \frac{1}{2}$) of sections eighteen (18) and nineteen (19); also the northwest quarter ($NW \frac{1}{4}$) of section thirty (30).

SEC. 4. Said city of West Saint Paul shall be, and is hereby, divided into three (3) aldermanic districts, and each ward shall constitute an aldermanic district. Said aldermanic districts shall be numbered to correspond with the numbers of the wards.

That each of said aldermanic districts, so as above defined and constituted, shall form a separate election precinct of said city for the holding of all the general elections provided for under the laws of this state, and for the election of all corporate officers provided for in this act.

Provided, however, that the common council of said city may, by a vote of two-thirds ($\frac{2}{3}$) of the members-elect of said council, divide such of said aldermanic districts as may contain over four hundred (400) resident electors into two (2) or more election precincts of said district, and, from time to time, designate by resolution or ordinance such election districts as may be deemed necessary, as aforesaid, in order to provide for the convenience of electors and to prevent illegal voting.

Such districts are to be designated by number or otherwise, as said common council may determine, *and provided further*, that said common council may, by a two-thirds vote of all the members elect of said council, change the boundaries of the aldermanic districts in this act defined; but such change shall not be made so as to increase the number of said districts.

SEC. 5. The following named residents and electors in the said City of West Saint Paul shall constitute the first common council of said city, who shall hold office until the first Tuesday in June, one thousand eight hundred and ninety-one (1891), and until their successors are elected and qualified, as hereinbefore provided, namely:

First Ward, George W. Wentworth, Gustave Otto.

Second Ward, Morris L. Locke, John Fitzgerald, Jr.

Third Ward, James W. McGrath, John Ickler.

And the said common council shall meet within ten (10) days after the passage of this act and organize by electing a mayor of said city, who shall be president of said council; and also elect from among the qualified electors of said city, the following officers, who shall hold office until the first Tuesday in June, one thousand eight hundred and ninety-one (1891) and until their successors are elected and qualified, namely: City Treasurer, a City Justice whose powers and duties and fees shall be the same as are now provided for justices of the peace under and by virtue of the Statutes of Minnesota, also one (1) constable.

CHAPTER II.

ELECTIONS.

SECTION 1. There shall be an annual election by the qualified electors of said city, for elective officers herein provided for, held on the first Tuesday in May, A. D. one thousand eight hundred and ninety-one (1891), and every two (2) years thereafter, in each aldermanic district in said city, and in such election precincts in said districts as may be established by resolution or ordinance of the common council, and at such place or places therein as the common council may, by resolution or otherwise designate, and ten (10) days previous notice of such election shall be given by the common council, of the time and place of holding such election, and of the officers to be elected.

No change of the boundaries of any election precinct, or the division of any precinct hereby established, shall be at any time made within thirty (30) days prior to the time of any election appointed to be held herein.

SEC. 2. The elective officers of said city shall be a mayor who shall be president of the council, city justice, and one (1) constable, all of which officers shall be residents within and qualified electors of said city. All other officers necessary for the proper management of the affairs of said city, and not otherwise provided for in this act, shall be appointed by the common council, and at the annual election of city officers, which election shall be held on the first Tuesday in May, one thousand eight hundred and ninety-one (1891), there shall be elected two aldermen in each of said aldermanic districts.

Each of said aldermen to be hereafter elected shall be a qualified elector and actual resident of the ward and district for which he may be elected, and shall continue to reside in such district, during the time he shall serve as such alderman; and every two (2) years thereafter there shall be elected two (2) aldermen from each district, to succeed the aldermen whose terms of office are about to expire, who shall hold their offices for two (2) years and until their successors are elected and qualified.

SEC. 3. Every person appointed to any office by the common council, or elected to any office by the people, may be removed from such office by a vote of two-thirds of all the aldermen authorized to be elected. But no officer elected by the people shall be removed except

for cause, nor unless first furnished with and notified of the charges against him, nor until such person shall have had a reasonable opportunity to be heard in his defence. The common council shall have power to fix a time and place for the trial of such officer, of which not less than ten (10) days notice shall be given him and to compel the attendance of witnesses, and the production of papers, and to hear and determine the case; and if such officer shall neglect to appear and answer to such charge, the common council may declare the office vacant.

SEC. 4. Whenever a vacancy shall occur in the office of any elective officer of said city, such vacancy shall be filled by the appointment by the common council of said city until the next annual election; and the successor of such person so appointed to fill any vacancy aforesaid, shall be elected at the next annual election for the unexpired term.

SEC. 5. A plurality of votes shall constitute an election. When two (2) or more persons receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they shall direct.

SEC. 6. All persons entitled to vote for state and county officers, and who shall have resided for ten (10) days next preceding the election, in the election district where they offer their votes, shall be entitled to vote for any officer elected under this law, and to hold any office thereby created. Said election shall be held and conducted in the manner and under the same penalties as required by the laws of the state regarding elections; except that the returns for all city elections shall be made to the city clerk, and the common council shall canvass the returns and declare the result.

SEC. 7. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the officers appointed by the common council, in the same manner, and the returns thereof shall be made in the same form and manner, as general and annual elections under the general laws of this state; and within such time as may be prescribed by resolution of the common council.

SEC. 8. Any officer removing from the city or ward for which he was elected, or any officer who shall neglect or refuse, for ten (10) days after the beginning of his official term, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill the vacancy as herein prescribed.

SEC. 9. That the term of any elective officer, unless herein otherwise provided for, shall commence on the first Tuesday in June next succeeding the day of his election, and unless otherwise provided for, shall continue for two (2) years and until his successor is elected and qualified.

SEC. 10. Should there be a failure by the people to elect any officer herein required to be elected, on the day designated, the common council may order a new election to be held, ten (10) days notice of the time and place of holding the election being first given.

CHAPTER III.

CITY OFFICERS—THEIR POWERS AND DUTIES.

SECTION 1. Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe to an oath of office and file the same, duly certified by the officer taking the same, with the clerk of the city; and such officers of said city as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of West Saint Paul a bond with at least two (2) sureties, each of whom shall take an oath that he is worth the amount named in the affidavit, over and above all his debts, exemptions or liabilities, which shall in the aggregate be equal to the penalty of the bond, and said bonds shall contain such penal sum and such conditions as the common council may deem proper; and they may, from time to time, require new or additional bonds, and remove from office any officer neglecting or refusing to give the same.

SEC. 2. The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall, from time to time, give the common council such information, and recommend such measures, as he may deem advantageous to the city. All ordinances and resolutions shall, before they take effect, be presented to the mayor, and, if he approves thereof, he shall sign the same; and such as he shall not sign he shall return to the common council, with his objections thereto, by depositing the same with the city clerk, to be presented to the common council at their next meeting thereafter.

Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be reconsidered, and if, after such consideration, the common council shall pass the same by a vote of two-thirds, it shall have the same effect as if approved by the mayor; and in such case the vote shall be by yeas and nays, which shall be entered by the city clerk of record.

If any ordinance or resolution shall not be returned by the mayor within five (5) days (Sundays excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him.

SEC. 3. At the first meeting of the common council in each year, they shall proceed to elect by ballot from their number a vice-president.

The mayor shall preside over the meetings of the common council; but during the absence of the mayor from the city, or his inability, for any reason, to discharge the duties of his office, the said vice-president shall exercise all the powers, and discharge all the duties, of the mayor.

In case the mayor shall be absent from any meeting of the common council, the vice-president shall act as presiding officer for the time being, and shall discharge the duties of such president and act in his place. The vice-president, or temporary presiding officer, while presiding over the common council, or performing the duties of mayor,

shall be styled acting mayor, and acts performed by either, when acting as mayor aforesaid, shall have the same force and validity as if performed by the mayor. The mayor and aldermen of said city shall have the right to administer oaths and affirmations, take acknowledgments of deeds, and do and perform generally all acts which may be done or performed by notaries public under the laws of this state.

SEC. 4. There shall be a clerk of said city styled the city clerk, who shall be elected by the common council.

He shall keep the corporate seal and all papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings he shall attend. Copies of all papers filed in his office, and transcripts from the records of the common council, certified by him under the corporate seal, shall be evidence in all courts as if the original were produced.

He shall draw and countersign all orders on the treasurer, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose.

The clerk shall have power to administer oaths and affirmations, and take the acknowledgement of deeds and other writings.

The term of office of the city clerk of the city of West Saint Paul, from and after the next election, shall be one (1) year.

SEC. 6. The city treasurer shall receive all moneys belonging to said city, including all taxes, license moneys and fines and other revenues of said city, and keep an accurate and detailed account thereof in such manner as to show the exact financial condition of said city. He shall exhibit to the common council at least fifteen (15) days before the annual election, and as often as the said common council, or the finance committee thereof may require a full and detailed account of all receipts and expenditures since the date of his last annual report, or for any required period, and also the state of the city treasury; which annual account shall be filed with the clerk.

He shall give such bond as the common council may require, and the same shall be conditioned for the faithful performance of all duties imposed by this act and particularly the duties required by chapter five (5) of this act, relating to the treasury department.

No funds of the city shall be loaned by the treasurer to any city officer, or other person, or otherwise disposed of, except in accordance with law.

Any violation of this provision shall be a misdemeanor, punishable by imprisonment for a period not exceeding one (1) year, or by a fine not exceeding one thousand dollars (\$1,000), or both, in the discretion of the court.

At the first meeting of the council in each month, the treasurer shall report the amount of city funds under his control, and where placed or deposited.

All money received by the city treasurer of the city of West Saint Paul, by virtue of his office as such treasurer (except the money belonging to the board of education, which shall be deposited as required by law) shall be deposited daily by the said city treasurer in one (1) or more designated national banks or private bank or banks in the name of the city of West Saint Paul; such bank or banks or bankers shall be designated by the common council of the city of West Saint Paul.

Provided, If no bank or banker shall be designated as aforesaid the said city treasurer shall keep the said funds and be responsible therefor.

SEC. 7. The city clerk shall annually submit to the common council, at their first stated meeting in July, an itemized report of the financial condition of the city; he shall make a list of all outstanding city bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear, and recommend such action to the common council as will secure the prompt payment of the principal and interest of such bonds. He shall also submit to said council, at their first stated meeting in May of each year, a synoptical report of the financial condition of the city.

SEC. 8. He shall report annually, on or before the first (1) day of October, to the common council, an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year, and the fiscal year shall commence on the first day of June of each year.

SEC. 9. He shall make or cause to be made, estimates of the expenses of any work to be done by the city, whenever directed by the common council, and countersign all contracts made in behalf of the city, and certificates of work by any committee of the council, or by any city officer.

SEC. 10. It shall be the duty of the city clerk to keep regular books of accounts, in which he shall enter all indebtedness of the city, and which shall, at all times, show the precise financial condition of the city; the amount of bonds, orders, and other evidences of indebtedness issued by the common council; the amount of all bonds, etc., which have been redeemed, and the amount of each outstanding; to countersign all bonds, orders, or other evidences of indebtedness to the city, and to keep an exact account thereof, stating to whom and for what purposes issued; to keep accounts with all the receiving and disbursing officers of the city showing the amount which they have received from all the different sources of revenue, and the amount which they have disbursed under the direction of the common council.

SEC. 11. If on or before the first (1st) day of June of any year, the amount expended or to be expended, chargeable to any of the special funds, (adding thereto the current expenses estimated for the remainder of the fiscal year, and chargeable to such fund), shall be equal to three-fourths of the tax authorized to be raised, or revenue estimated for such fund, he shall at once report the same to the common council, and he shall not countersign any contracts chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract, the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable, except as herein otherwise provided.

SEC. 12. He shall examine the reports, books, papers, vouchers and the accounts of the treasurer, and, from time to time, shall perform such other duties as the common council may direct.

SEC. 13. He shall at all time have access to the said reports, books, papers, vouchers and accounts, and shall assist the treasurer in carrying out the provisions of chapter five (5) of this act.

All claims and demands against the city, before they are allowed by the common council, shall be audited and adjusted by the clerk, and all orders on the treasurer shall be signed by him before they are delivered.

SEC. 14. It shall be the duty of the city clerk, in auditing and adjusting claims and accounts against the city, to designate and specify upon each claim, demand and account so audited and adjusted, the particular fund out of which the same shall be paid, and the same shall not be audited or adjusted by him or reported to the common council until there shall be sufficient funds to the credit of the particular fund out of which the same is payable, to pay the same as well as other claims before that time audited and allowed against such fund.

SEC. 15. The city clerk shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts, with an index thereto; such records shall be open to the inspection of all parties interested.

He shall not be directly or indirectly interested in any contract or job to which the city is a party.

He shall give such bonds as the common council may require, and the same shall be conditioned for the faithful performance of all the duties required by chapter five (5) of this act, relating to the treasury department.

SEC. 16. If any person, having been an officer in said city, shall not, within ten (10) days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one thousand dollars (\$1,000), besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers, and effects, in the manner prescribed by the laws of this state.

SEC. 17. The mayor and members of the common council shall be exempt from serving on any jury during their term of office.

SEC. 18. The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, unless herein otherwise provided for; but no officer elected or appointed by the common council, or appointed by the mayor, as hereinbefore provided, shall be appointed for a longer term than one (1) year and until his successor is elected or appointed, and duly qualified, except as provided in this act.

The common council shall also have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act; such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during such year.

SEC. 19. That no alderman, member of the board of public works, or other officer of the said city of West Saint Paul, while acting as such, shall, directly or indirectly, be a party to, or interested or concerned

in, any contract or job with said city, or in any work prosecuted by its authority, or in the compensation to be received therefor, or in the furnishing supplies, fuel, or other articles purchasable for the public use; and any contract or transaction prohibited, as aforesaid, shall be void, and all moneys which may be paid thereon by said city may be recovered back, and the office of any such city officer so offending shall become thereby vacant, upon conviction thereof.

CHAPTER IV.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

SECTION 1. The aldermen shall constitute the common council, and the style of all ordinances shall be: "The Common Council of the City of West Saint Paul do Ordain," etc.

The common council shall meet at such time and place as they by resolution may direct. A majority of the aldermen shall constitute a quorum.

SEC. 2. The common council shall hold stated meetings, and the mayor may call special meetings by notice to each of the members, to be delivered personally or left at their usual place of abode.

The common council shall be the judge of the election and qualification of any officer of said city, and in such cases shall have power to send for persons and papers, and also determine the rules of its own proceedings, and have power to compel the attendance of absent members.

SEC. 3. The common council shall have the management and control of the finances (subject to the provisions of this act) and all the property of the city, and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city; for the suppression of vice and intemperance; and for the prevention of crime, as they shall deem expedient. They shall have the power to establish and maintain a city prison and watch-houses; to appoint keepers and other officers for the same, and prescribe their duties and fix their compensation. The keepers of said prison and watch-houses shall have and possess all the powers and authority of jailors at common law or by the laws of this state.

The common council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same, against any person or persons who may violate any of the provisions of any ordinance, rule or by-law passed or ordained by them; and all such ordinances, rules and by-laws are hereby declared to be and have the force of law.

Provided, That they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority by ordinances, resolutions or by-laws:

First, To license and regulate the exhibition of common showmen and shows and exhibitions of all kinds, and the exhibition of caravans, circuses, concerts and theatrical performances, and also to license and regulate all auctioneers, billiard tables, pigeon-hole tables, nine or ten

pin alleys, bowling saloons, butcher shops or butcher stalls and venders of butchers' meat, pawnbrokers, insurance offices and insurance agencies, taverns, lager beer saloons, victualing houses, and all persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors;

Provided, That this act shall not be so construed as to prevent pork packers from disposing of the offal or trimmings of hogs, nor shall any person selling game, or who may dispose of any animals raised or fatted by him, or who may sell fresh meats by the carcass or quantities not less than the quarter, be deemed or held to be a vender of fresh or butcher's meats under the provisions of this act; and also to license and regulate the selling or contracting for the sale of any goods, wares or merchandise by samples, when such goods, wares or merchandise are thereafter to be sent or delivered to the purchaser;

And provided further, That not less than five (5) dollars, nor more than five hundred dollars (\$500) shall be required to be paid for any license under this act, except liquor licenses which are otherwise provided for by general laws; and the fee for issuing the same shall not exceed one dollar (\$1); and said common council may at any time revoke any license granted under this act for malconduct in the course of trade, and may regulate and restrain the sale of fresh or butcher's meat within the corporate limits of said city, and punish or restrain the forestalling of game, poultry, eggs or fruit within said city; *and provided*, that no general law of this state shall be construed as to prevent the licensing or regulation of insurance offices and insurance agencies by said common council.

Second, To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purposes of gaming in said city; and to restrain any person from giving and dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council.

Third, To prevent any riots, noise, disturbance and disorderly assemblages in said city, and to provide for the arrest and punishment of any person or persons who shall be guilty of the same; to suppress disorderly houses or groggeries and houses of ill-fame, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of all instruments used for the purposes of gaming.

Fourth, To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, nauseous house or place, to cleanse, remove or abate the same from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Fifth, To direct the location and management of slaughter-houses and markets, breweries, distilleries and pawnbrokers, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of gunpowder or other combustible material.

Sixth, To prevent the encumbering of streets, sidewalks, lanes, alleys, public grounds or wharves, with carriages, carts, wagons, sleighs, boxes, lumber, fire-wood, posts, awnings, or any other materials or substances whatsoever.

Seventh, To prevent and punish horse-racing, immoderate riding or driving in the streets, to compel persons to fasten their horses or other animals, attached to vehicles or otherwise, while standing in the streets, and to regulate places of bathing and swimming in the waters within the limits of said city.

Eighth, To restrain the running at large of cattle, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals, for violation of the ordinances;

Provided: That when a sale of such animals shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and selling such animals, shall be deposited in the office of the treasurer of said city, for the use and benefit of the owners thereof, if called for by such owner within one (1) year from the day of such sale.

Ninth, To prevent the running at large of dogs, and may impose a tax on the same, and to authorize the destruction of the same, in a summary manner when at large contrary to the ordinance.

Tenth, To prevent any person from bringing, depositing or having within said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind; and on default to authorize the removal thereof by some competent officer at the expense of such person or persons.

Eleventh, To make and establish public pounds, pumps, wells, cisterns, hydrants, reservoirs, and to provide for and conduct water into and through its streets, avenues, alleys and public grounds, and to provide for and control the erection of water works, for the supplying of water to its inhabitants; to regulate and at a reasonable rate, to license second-hand stores and junk-shops; to erect lamps, and provide for lighting the city, and to control the erection of gas works or other works for lighting the city streets, public grounds and public buildings, and to create, alter and extend lamp districts.

Twelfth, To establish and to regulate boards of health, provide hospitals and hospital grounds, the registration of births and deaths, and the return of the bills of mortality, and to regulate or prevent the burial of the dead within the city limits.

Thirteenth, To regulate the size and weight of bread, and to provide for the seizure and forfeit of bread baked contrary thereto.

Fourteenth, To prevent all persons riding or driving any ox, mule, cattle or other animal on the sidewalk or other public grounds and property in said city, or in any way doing any damage to such sidewalks, grounds or property.

Fifteenth, To prevent the shooting of fire arms or crackers, and to prevent the exhibition of any fire-works in any situation which may be considered by the council dangerous to the city or any property therein, or annoying any citizen thereof.

Sixteenth, To prevent open or notorious drunkenness and obscenity in the streets or public places of said city, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

Seventeenth, To restrain and regulate porters, and also runners,

agents and solicitors for the boats, vessels, stages, cars, public houses and other establishments.

Eighteenth, To provide for the receipt, storage, transportation, safe-keeping and dealing and traffic in gunpowder, gun cotton, petroleum, kerosene or other dangerous, explosive or inflammable oils or substances within said city, or within one (1) mile of the corporate limits thereof, and to provide for the summary condemnation or destruction of any of said articles as may be kept, stored, dealt in, transported through or received in said city contrary to such ordinance as said city may enact for the safety of life and property therein.

Nineteenth, To regulate the place and manner of weighing hay and selling the same, and the measuring and selling of fire-wood, coal and lime, and to appoint suitable persons to conduct and superintend the same.

Twentieth, To compel the owner or occupant of buildings or grounds to remove snow, dirt or rubbish from the sidewalk, street or alley opposite thereto, and to compel such occupant to remove from the lot owned or occupied by him all such substances as the board of health shall direct, and, in his default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant.

Twenty-first, To regulate, control and prevent the landing and conveyance of paupers and persons in a destitute condition into said city, and not having a legal settlement or residence therein, by any means of conveyance, and to require that such persons shall be taken back to the place from whence they may have been brought by the person or persons bringing or leaving them in said city.

Twenty-second, To regulate the time, manner and place of holding public auctions or vendues.

Twenty-third, To provide for watchmen, and to prescribe their number and duties, and to regulate the same; and to create and establish the police of said city, and to prescribe the number of police officers and their duties, and to regulate the same.

Twenty-fourth, To provide by ordinance for a standard of weights and measures; for the appointment of a city sealer, and to require all weights and measures to be sealed by the city sealer; and to provide punishment for the use of false weights and measures.

Twenty-fifth, To regulate the inspection of flour, pork, beef, salt, fish, whisky, and other liquors and provisions.

Twenty-sixth, To regulate the inspection and measurement of lumber, shingles, timber and building materials.

Twenty-seventh, To appoint inspectors, weighers and gaugers, to regulate their duties and prescribe their compensation.

Twenty-eighth, To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

Twenty-ninth, To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds and highways of the city.

Thirtieth, To remove and abate any nuisance injurious to the public health or safety; and to remove or require to be removed, at the expense of the owner, any building which, by reason of dilapidation, defects in structure, or other cause, may have or shall immedi-

ately become dangerous to life or property; and to provide for the punishment of all persons who shall cause or maintain such nuisances.

A statement of any such expense incurred, specifying the lots or parcels of land upon which it was incurred, shall be filed by the city clerk in the office of the register of deeds of the county of Dakota, and shall thereupon become a lien in favor of said city upon such lot or parcel of land. The amount of such expense may be recovered by said city against the owner or owners of said lot, or parcel of land, and the lien be enforced in a civil action in any court of competent jurisdiction; *provided*, that such statement shall be filed within three (3) months after such expense has been incurred by said city; and that if suit shall not be brought as aforesaid, to enforce such lien within one (1) year thereafter, the same shall abate; and *provided further*, that said lien shall not obtain before the filing thereof, against a *bona fide* purchaser, without notice of such expenditures.

Thirty-first, To do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease, and make regulations to prevent the introduction of contagious diseases into the city; and to make quarantine laws, and enforce the same in the city limits.

The jurisdiction of said city shall extend to and be in force over any lands within the county of Dakota purchased or used by said city; for the purposes of a quarantine, for police and sanitary regulations, and for the preservation of the health of said city and the suppression of disease, and abatement of public nuisances, and the suppression of any business contrary to the sanitary regulations of the common council or the board of health, the jurisdiction of said city shall extend for a circuit of one (1) mile beyond the present or any future limits of said city except within the limits of other incorporated cities.

Thirty-first, To restrain and punish vagrants, mendicants, street beggars and prostitutes. *Provided*, that the common council may, by ordinance, make such disposition of the fines collected and received by the city under any ordinance ordained by the common council to enforce this subdivision, as may, in its opinion, be for the best interests of the public.

Thirty-second, Fines, penalties and punishments imposed by the common council for the breach of any ordinance, by law or regulation of said city, may extend to a fine not exceeding one hundred dollars (\$100) and imprisonment in the city prison not exceeding thirty (30) days, or both, and to be fed on bread and water, at the discretion of the city justice, and offenders against the same may be required to give security for their good behavior, and to keep the peace not exceeding six (6) months, and in a sum not exceeding five hundred dollars (\$500).

Thirty-third, The common council of said city may provide by ordinance that any one convicted of an offence before the city justice, subjecting such offender to imprisonment under the charter and ordinances of said city, may be kept at hard labor in any public street or road in said city, or in case of a male offender may be kept at hard labor in any work house until such person shall work out the amount of such fine, at such rate of compensation as said council may prescribe, for a term not exceeding the term of such commitment; and

the common council shall have full power to establish a suitable workhouse in said city for the purpose aforesaid, and under such regulations as the common council may provide. *Provided* that the city justice shall not have the power, for vagrancy, to commit any person to the city prison, city workhouse or county jail, or to order any such person to work upon the public streets or improvements of said city for a longer period than thirty (30) days.

Thirty-fourth, The common council shall have power to control and regulate the construction of buildings, chimneys and stacks, and to prevent and prohibit the erection and maintainance of any insecure or unsafe buildings, stacks, walls or chimneys in said city and to declare them to be nuisances and to provide for their summary abatement, and to provide for the regulation or summary abatement of any work or buildings which is detrimental to the safety or security of said city.

Thirty-fifth, To regulate or prohibit the carrying or wearing concealed, by any person, any dangerous or deadly weapon, and to provide for the confiscation thereof.

Thirty-sixth, To regulate the penning, herding and treatment of all animals within the city.

SEC. 4. All ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the members of the common council present, by ayes and nays, and published in the official paper or posted in three conspicuous places in said city before the same shall be in force, and shall be admitted as evidence in any court of the state, without further proof, and they shall be recorded by the city clerk in books to be provided for that purpose. No appropriation shall be made without a vote of a majority of the members elect of the common council in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council. In the publication or posting of resolutions they may be included in the publications of the council with the dates of their approval without appending in such publication the signatures to such resolutions.

SEC. 5 The powers conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law.

Depots, houses or buildings of any kind within the limits of said city, wherein more than twenty-five (25) pounds of gunpowder or more than five (5) barrels of forty-two (42) gallons each, (or such greater or less quantity as said common council may direct by ordinance), petroleum, kerosene, naphtha, or other inflammable or explosive oils or substances are deposited, stored or kept at any one time, gambling houses, houses of ill fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

SEC. 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, and other officers and agents of the city, at such times as they may deem proper, and also at the end of each year, and before the term for which the officers of said city were elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his

books, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of their said duties in pursuance of this section, or shall neglect or refuse to render his accounts, or present his books and vouchers to said council or a committee thereof, it shall be the duty of the common council to declare the office of such person vacant. And the common council shall order suits and proceedings at law against any officer and agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties; and shall make a full record of all such settlements and adjustments.

SEC. 7. The common council shall have the care, supervision and control of all public highways, bridges, streets, alleys public squares and grounds, and parks and sewers, and all other public improvements and public property within the limits of said city, and shall cause all streets which may have been opened and graded under the authority of said city, or with its assent, to be kept open and in repair and free from nuisances.

The city corporation shall be exempt from all liability for damage caused by railroads, either to persons or property, when said railroads or engines or cars, are passing along, across, under, over, or upon any street, lane, alley, or other public way, within the limits of West Saint Paul.

SEC. 8. The common council of said city shall have the sole and exclusive power to vacate or discontinue public grounds, streets, alleys and highways within said city. No such vacation or discontinuance shall be granted or ordered by the common council, except upon the petition of a majority of the owners of property on the line of said public grounds, streets, alleys or highways, resident within said city; such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys or highways proposed to be vacated, shall be verified by the oath of at least two (2) of the petitioners. The common council shall thereupon, if they deem it expedient that the matter shall be proceeded with, order the petition to be filed of record with the city clerk, who shall give notice by publication in the official paper of the city for four weeks, at least once in each week, to the effect that said petition will be heard and considered by the common council, or a committee appointed by them, on a certain day and place therein specified, not less than ten (10) days from the expiration of such publication. The common council, or such committee as may be appointed by them for the purpose at the time and place appointed, shall investigate and consider the matter, and shall hear the testimony and evidence on the part of the parties interested. The common council, thereupon, after hearing the same, or upon the report of such committee in favor of granting such petition, may, by a resolution passed by a three-fourths vote of all members elect, declare such public grounds, streets, alleys, or highways vacated, which said resolution, after the same shall go into effect, shall be published as in the case of ordinances, and thereupon a transcript of such resolution, duly certified by the city clerk, shall be filed for record, and duly recorded in the office of the register of deeds for the county of Dakota.

SEC. 9. Any person feeling aggrieved by any such vacation or discontinuance, may, within ten (10) days after the publication thereof, 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 Dakota, appeal to said court from such vacation or discontinuance, where such appeal shall be tried by the court and jury as in ordinary cases, and the judgment of which court shall be final, against which no appeal or writ of error shall lie.

It shall be the duty of the city clerk, as soon as any such appeal is taken, to transmit to the proper court a certified copy of the record of all proceedings in the case, at the expense of the appellant.

Such appeal shall be entered and brought on for trial, and governed by the same rules in all other respects as appeals from justices of the civil suits, except that no pleadings shall be required.

SEC. 10. The common council shall have power and authority, by a vote of three-fourths ($\frac{3}{4}$) of all the members elect of said council, to grant a right of way upon, over and through any of the public streets, highways, alleys, public grounds or levees of said city, to any steam railway or street railway, water, telegraph or telephone company or corporation, upon such limitations and conditions as they may prescribe by ordinance.

SEC. 11. The common council shall have the power to regulate the laying of all water pipes and mains and fixtures to be erected or laid or placed in any street, lane, alley or public way in the city of West Saint Paul, by any company, corporation or person, now or hereafter created, and it shall be the duty of such corporation, company or person so owning or controlling said water, and pipes and mains, on application therefor to furnish water to the city of West Saint Paul and all its departments, (in addition to its rights to the same for the extinguishment of fire), and for any other public or police purposes, at all such reasonable times and places as the common council may direct or prescribe, and also at such reasonable terms and rates as the parties may agree upon or as may be determined by two (2) citizens of said city, one (1) to be chosen by the city and one (1) by the water company or person controlling the same, and if they fail to agree, they shall select a third person, and then their decision shall be the price to be paid by said city. In no event nor under any circumstances shall said water be withheld from said city for the fire department; but if said city shall fail to pay the price fixed, the said water company or person controlling the water, or pipes, or mains, or fixtures, shall have all the remedies at law for the collection thereof; and if said water company, or any company or person controlling the same shall violate any of the provisions of this section, it shall be deemed a misdemeanor, and if any person acting under the order, permission or authority of said water company, who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor and be subject to an indictment, and be punished by a fine of not more than one thousand dollars (\$1,000), to which may be added imprisonment in the county jail not longer than twelve (12) months. If said city shall fail to pay said water company for the period of sixty (60) days after due, it shall pay thereafter one (1) per cent per month until paid.

SEC. 12. The common council of said city, by a three-fourths vote of all the members elect, shall have the power to grant to individual firms or corporations, the use of the streets and public grounds of said city, for the purpose of laying pipes for conducting steam for heating and motive power, upon such conditions as the common council may determine by resolution.

Provided, That said pipes shall always be laid under the direction of the said council and shall be at all times under the control of said council.

SEC. 13. The common council of said city shall have authority to license and regulate the exhibition of common showmen and shows of all kinds, and the exhibition of caravans, circuses, concerts and theatrical performances, and also license and regulate all auctioneers, billiard tables, pigeonhole tables, nine and ten pin alleys, bowling saloons, butcher shops and butcher stalls and venders of butcher's meats, hucksters, venders or dealers in fruits or vegetables, stockyards, pawnbrokers, insurance offices and insurance agents, taverns, lager beer saloons, victualing houses and all persons vending, dealing in or disposing of spirituous, malt or fermented liquors.

SEC. 14. The common council of said city shall have power to purchase real estate for the use of said corporation, or to aid in the purchase of real estate for such public purposes as the common council may deem proper, by a two-thirds ($\frac{2}{3}$) vote of all the members thereof elect, and by a like vote to sell and convey such real estate as the city may own, and which are not needed for municipal purposes.

And provided, That said common council shall never contract or increase any indebtedness for the purchase of real estate without special authority first obtained from the legislature.

SEC. 15. The common council of the city of West Saint Paul, in addition to its other powers, is hereby authorized to ordain such other and further ordinances not inconsistent with the laws of the state, which shall be deemed expedient for the good government of the city, the protection of its property, the preservation of peace and good order, the suppression of vice, the benefit of trade and commerce, the preservation of health, the prevention and extinguishment of fires and to prescribe limits in which neither wood, lumber, lath shingles or hay can be piled or stored or lumber yards established or maintained within said city. Also to regulate and provide for the payment of all salaries of the city officers of said city of West Saint Paul, except that in no case shall the members of the common council receive more than one hundred dollars (\$100) per annum for their services as such aldermen.

CHAPTER V.

THE TREASURY DEPARTMENT.

SECTION 1. Said common council shall have full power and authority to issue bonds to fund the floating or funded indebtedness of the city, such bonds to be payable in not less than ten (10) years after date, with interest payable semi-annually in the city of New York or in the city of West Saint Paul. No bond hereafter to be issued by said city, for any purpose, shall draw more than six (6) per

cent. interest per annum, and said common council are fully authorized and required to provide by taxation for the prompt payment of interest, and for a sinking fund sufficient to meet such bonds, and all other bonds, of said city at maturity. And all acts of the legislature of this state authorizing an issue of bonds by said city, shall be construed to contain a provision for the payment of the interest thereon, and for a sinking fund sufficient to pay the same, by taxation, unless the contrary shall be expressed in such act.

SEC. 2. All moneys credited to the general fund of said city shall be under the control of the common council, and shall be paid out upon the order of the mayor and clerk, duly authorized by a vote of the common council; and all orders drawn upon the treasurer shall specify the specific purpose for which they were drawn, and shall be payable generally out of any funds in the general fund belonging to said city; but no such order shall be paid out of any special fund which has been specifically pledged as aforesaid; and such specific funds shall only be drawn out upon orders drawn upon such funds by virtue of a resolution of the common council. All orders shall be payable to the order of the person in whose favor they may be drawn, and they may be transferred by endorsement. No order on the treasury shall be drawn or issued until there shall be funds sufficient to pay the same, together with the orders that may be then outstanding. *Provided*, that this prohibition shall not apply to orders to pay the police force, city officers, and pay rolls of the street commissioners.

SEC. 3. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to taxation for the support of the city government and payment of its debts and liabilities, and the same shall be assessed in the manner provided by law. The said common council may levy an annual tax upon all property in said city taxable under the laws of this state to and for the specific purposes following, that is to say:

First. To provide for the interest on all outstanding bonds to become due during the fiscal year, and for a *sinking fund* sufficient to meet and pay such bonds at maturity, and the floating indebtedness of the city.

Second. To provide for the support of the public free schools of said city.

Third. To provide a "*general fund*," to pay the general current and incidental expenses of the city, including salaries of officers, police, street force, fire department, water department, printing and stationery; and for a *contingent fund* not exceeding ten thousand dollars (\$10,000), and to provide for the preservation of the health of the city; but the amount of money to be raised for the above purposes shall only be so much as will be necessary, in addition to the amount received from licenses, fines, markets and other incidental sources, for an economical administration of the affairs of the city, and shall not exceed ten (10) mills on the dollar of the assessed value of the taxable property of the city; and the money so raised shall not be expended for any other purpose than above stated.

Fourth. To provide a *ward fund* for each ward therein of said city, for street lighting and such improvements, repairs or other expenses within such ward as may be properly ordered to be paid out of the

fund of such ward, there may be levied annually a tax not exceeding four (4) mills on the dollar of the assessed value of the property in the city. The amount of such taxes collected shall be credited to the ward fund of the ward from which the same was collected.

SEC 4. The said levy shall be made by said common council on or before the first (1st) day of November, of each year, and the same shall be entered upon the tax duplicate for the county of Dakota, and collected annually in like manner as state and county taxes are collected.

SEC. 5. The county treasurer of the county of Dakota shall pay over to the city treasurer of said city, any and all taxes and moneys collected by him, or received by him from said city, on account of the tax levy of eighteen hundred and eighty-eight (1888), or any subsequent levy, on the first Monday of each and every month, next after such taxes or moneys are collected or received, any general or special law of the State to the contrary notwithstanding; and also report to the common council monthly, the amount of cash on hand at the date of each report. Immediately after the first levy of taxes under section three (3) of this chapter, the city treasurer shall open and keep in his books separate and distinct accounts for each of the several items of taxation therein provided for; and particularly separate and distinct interest and sinking fund accounts for all bonds and floating indebtedness; for the general fund, and for the ward fund, or any other special fund; and thereafter, whenever the said county treasurer shall pay over to said city treasurer any taxes belonging to said city, and collected under the levy provided for by said section three (3), the said city treasurer shall credit each of said respective funds with its proportionate amount of such payment according to the tax levy for such separate fund, and the same shall remain so credited, and shall not be paid out by said treasurer except in payment of such interest, or other specific fund for which said funds shall have been levied and collected. And no ordinance, resolution or order of the said common council or of any committee thereof, or officer of said committee thereof, or officer of said city, shall warrant or authorize the said treasurer to divert any of the said separate funds from the legitimate purpose for which the same were collected and credited aforesaid, or to borrow or transfer any balance or portion of one of said funds to the credit of the other, except as hereinbefore provided.

SEC. 6. In all cases where the common council have heretofore or may hereafter pledge or set apart any specific source of revenue of said city for any particular purpose, by ordinance, the said city treasurer shall open and keep in his books, separate and distinct accounts of each of such revenues so pledged or set apart; and thereafter, so long as said ordinance remains in force, he shall credit all such revenues to such account, and the same shall only be paid out upon orders against the said fund, and for the particular purposes for which the same is so pledged; and no resolution of the common council or order or direction of any committee thereof, or officer of said city, shall warrant or authorize the said treasurer to divert any of said separate funds from the legitimate purposes for which the same was collected, or to borrow or transfer any balance or portion of one of such funds to the credit of the other, except as hereinafter provided. *Provided*, that a separate fund created by ordinance, may be diverted

to the general fund or to any other special fund by an ordinance duly enacted for that purpose; but nothing contained in this section shall be construed to affect the interest and sinking fund of said city.

SEC. 7. It shall be the duty of the city clerk, in auditing and adjusting claims and accounts, as herein provided, to designate and specify of each claim, demand and account so audited and adjusted, the particular fund out of which the same shall be paid; and the same shall not be audited or adjusted by him, or reported to the council, until there shall be sufficient funds to the credit of the particular fund out of which the same is payable, to pay the same, as well as all other claims before that time audited and allowed against such fund. The common council may at any time by resolution, direct the city treasurer to set aside any of the revenues of said city not especially pledged to the interest and sinking fund, not arising from the annual tax levy, as a special fund for the purpose of paying the police force, street force, and the salaries of city officers; and therefore the said police and street force, city officers and city printers may be paid out of any moneys in such special fund, or out of the general fund, as the common council may direct.

SEC. 8. The city clerk shall not prepare or sign any order on the city treasury unless the requirements of section seven (7) have been complied with; and in drawing all orders he shall designate therein the particular fund drawn upon in each order.

SEC. 9. Any wilful neglect or refusal on the part of the said city treasurer, the city clerk, or the county treasurer of Dakota county, to perform the duties required in this chapter, or any vote or act of any alderman, or of said officers, or other officer of said city, made or done with the wilful intent to evade the provisions of this chapter, or to divert the funds raised by taxation, or pledged by ordinance to a specific purpose, is hereby declared to be a misdemeanor, and upon conviction thereof such officer shall be punished by a fine not exceeding five thousand dollars (\$5,000) and imprisonment in the county jail of Dakota county, not exceeding three (3) years.

SEC. 10. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by this act, except by a two-thirds vote of the common council elect; and no vote of the common council in relation thereto, shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken.

SEC. 11. The tax to be levied under section four (4) for the "general fund" shall embrace the following specific objects, which shall be included and itemized in the annual report of the city clerk, as required by section eight (8) of chapter three (3) of this act, to-wit:

Salaries of city officers.

Police department.

Expenses of city hall.

Fire department.

Board of health.

Water department.

Contingent fund.

—And for such other specific purpose or purposes as are prescribed

by laws heretofore enacted and still in force, as aforesaid; and the taxes levied and collected for such specific object or objects shall be applied only to defray the expenditures, together with the arrearages due and unpaid, for such specific object or objects, which arrearages or indebtedness shall be provided for in the next tax levy. *Provided*, that in case of the neglect or refusal of the city clerk to itemize the expenditures of the city in his annual report, as provided in this section, it shall be the duty of the common council to provide for such deficiency by including it in the tax levy of the current year.

SEC. 12. That it is hereby made the duty of the treasurer of the county of Dakota, in the collection of taxes, to keep a set of books so as to show at all times the exact amount of money received or collected for the city of West Saint Paul, and for the board of education of said city, and that all taxes received by said county treasurer for said city, and the board of education thereof, shall be distributed as collected on the books of said county treasurer to the credit of said city and the board of education thereof; and the said county treasurer shall, on the first (1st) week-day of each and every month, or as soon thereafter as the same may be demanded, pay over to the city treasurer of the city of West Saint Paul all moneys and penalties collected the previous month for said city, as well as all moneys collected for the board of education of said city, as shown by the county treasurer's book or books.

SEC. 13. It is hereby made the duty of the treasurer of the county of Dakota, in the collection of taxes, to include in that portion collected for the city of West Saint Paul all taxes levied by the board of county commissioners to be collected from the city of West Saint Paul for the *poor fund* of said county, and to pay over such portion of the poor fund of said county so collected from the city of West Saint Paul to the treasurer of said city. It shall be the duty of the treasurer of the county of Dakota, in returning any taxes collected for the city of West Saint Paul to the treasurer of said city, to report to said treasurer the amount collected to the credit of each and every fund levied by the common council of said city in the annual tax levy made under and by the authority of chapter five (5) of this act; and it shall hereafter be the duty of the common council of said city, in making each and every annual tax levy as aforesaid, to include in the same an amount sufficient, not exceeding one (1) mill on the dollar of the assessed value of the taxable property of said city, to meet the requirements of a fund to be known as *the poor fund*; and the money so raised shall be applied solely to the relief of cases needing assistance in said city from said fund, which fund shall be drawn upon by and in the discretion of the common council.

All applications for assistance from said fund shall be made to the city clerk and by him reported to the common council.

SEC. 14. There is hereby created a fund to be hereafter known as *the local improvement fund* of said city of West Saint Paul, for the purpose of aiding in local improvements mentioned in chapter six (6) of this act.

Such funds shall be held strictly for the purpose of aiding in such improvements, and no orders on said fund shall be issued by the city

clerk, or signed by the mayor, except for the purposes herein referred to and especially mentioned in said chapter six (6) of this act.

For the purposes of this fund authority is hereby granted to the city of West Saint Paul to issue the sum of twenty-five thousand dollars (\$25,000) in bonds of said city; the proceeds of which bonds shall be applied to the purposes of the local improvement fund and to none other. To carry out the purposes of this fund the common council may, whenever the necessity of the case requires it, pass resolutions authorizing the city clerk to draw, and the mayor to sign orders on this fund, to pay estimates on account of any contract made in conformity with chapter six (6) of this act.

The city clerk shall keep an accurate account with each and every contract made under chapter six (6), showing all moneys received or paid out on account of the same; and as fast as any balance accumulates in the hands of the city treasurer to the credit of any such contract specified in chapter six (6), said balance shall be transferred to the local improvement fund.

The bonds herein provided for shall be of the denomination of one thousand dollars (\$1,000) each, with interest coupons attached, and shall be payable in not less than twenty (20) years after date, with interest at a rate not to exceed six (6) per cent. per annum, payable in the city of New York at such financial agency as the city of West Saint Paul may select. And none of said bonds shall be sold or negotiated for less than par.

CHAPTER VI.

LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS THEREFOR.

TITLE I.

STREETS, SIDEWALKS, ETC.

SECTION 1. The municipal corporation of the city of West Saint 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 improvement, without regard to cash valuation.

SEC. 2. Such assessment may be made by the said city of West Saint Paul for filling, grading, leveling, paving, curbing, walling, bridging, graveling, macadamizing, planking, opening, extending, widening, contracting, altering, 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 park, square or grounds, now or hereafter laid out; also for planting and protecting shade and ornamental trees; and also for constructing, laying, relaying and repairing cross and sidewalks, area walls, gutters, sewers and private drains.

SEC. 3. The expenses of any improvements mentioned in the foregoing section may be defrayed, save as herein otherwise provided, by an assessment upon the real estate benefited thereby, or by an assessment upon the real estate fronting thereon, to be levied in the manner hereinafter prescribed; *Provided*; That cross foot walks over

public streets, lanes or alleys, shall be paid out of the improvement fund of the proper ward; also all crosswalks, footwalks and sidewalks adjacent to public squares, public grounds and public parks, shall be paid out of the general fund of said city; and that all or any part of the expense of improving or ornamenting public grounds, squares and parks, may, if the common council of said city deem it expedient, be paid out of the improvement fund of the proper ward, or the general fund of said city.

SEC. 4. All assessments for local improvements aforesaid, as provided in this chapter shall be made by the common council of the city of West Saint Paul, except as may be herein otherwise provided.

SEC. 5. All applications or propositions for any improvement mentioned in section two of this chapter, shall be made to the common council of said city. *Provided*, That any such application made to said council shall be in writing, and that said council shall not be required to proceed further with any such application, unless such council is satisfied that a majority of the property owners, who would probably be assessed for the expense of any such improvement, have subscribed to such application. Upon such proper application, said common council shall proceed to investigate the same; and if they shall determine that such improvement is necessary and proper, they shall report the same accompanied with an estimate of the expense thereof, and a proper ordinance or order directing the work. If they do not approve of any such application or proposition, they shall report their reasons for their disapproval.

Provided, That the council shall in no case, order the doing of any such work, or the making of any such improvement unless in their opinion real estate to be assessed for such work or improvement, can be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby. 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. 6. 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 chapter, save as herein otherwise provided), which shall require the appropriation or condemnation of any land or real estate, the said common council shall, as soon as practicable, proceed to ascertain and assess the damages and recompense due the owners for such land respectively, and at the same time to determine what real estate will be benefited by such improvement and assess the damages, together with the cost 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.

SEC. 7. The said common council shall then give fifteen (15) 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 for, and they shall describe the land to be condemned as near as may be done by general description; said notice shall be published at least three times, and said period of fifteen days shall commence from the first publication; and all persons interested in any such improvement shall have the right to be present and be heard, either in person or

by counsel, and an attorney as counsel for the city of West Saint Paul shall be permitted to appear before them at such hearing to represent the interests of said city. The said common council 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 common council for this purpose are hereby authorized to administer oaths to all witnesses produced before them, and they may adjourn from time to time and place to place, until such assessment is completed.

SEC. 8. The said common council in making said assessments, 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 improvements

SEC. 9. If the damage to any person be greater than the benefit received, or if the benefit be greater than the damage, in either case the said common council 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 collectible of them or paid to them.

SEC. 10. In the assessment of damages and benefits for the opening of any street or alley, it shall be lawful for the said common council 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 in part, donated to the public by the proprietors of the adjoining land, it shall also be lawful for said common council in their discretion, to make such allowance therefor, in their assessments for benefits as shall in their opinion be equitable and just.

SEC. 11. If there should be any building standing in whole or in part, upon the land to be taken, the said common council shall add to their estimate of damages for the land, the damages also done 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 council, and the notice 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 bus-

ness or abode. If the owner is not known, or is a non-resident twenty days' notice to all persons interested shall be given by publication in the official paper of the city; such notice shall be published at least five (5) times, and said period of twenty (20) days shall commence from the first publication. Such owner may at any time, within twenty (20) days after service, or the first publication of said notice, notify the said common council 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 council, 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 shall have such time for the removal of the building after the confirmation of the assessment said common council 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 common council, 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 (10) 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 in the city treasury, to the credit of special assessment fund raised for the said improvement. Said ten days' notice shall be published at least five (5) times, and said period of ten (10) days shall commence from the first publication.

SEC. 12. 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 common council, less the benefits resulting to them, respectively, from the improvement.

SEC. 13. Having ascertained the damages and expenses of such improvement, as aforesaid, the said common council shall thereupon apportion and assess the same, together with the costs of the proceedings, upon the real estate by them deemed benefitted, 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 assessment 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.

SEC. 14. When completed said common council shall cause to be given 10 days notice by three publications in the official paper of the city to the effect that such assessment has been completed, and that at a time and place therein specified, the said council shall meet for the purpose of hearing objections, and that all such objections must be filed in writing, with the city clerk, at least one day prior to said meeting, and that unless sufficient cause is shown to the contrary, the same shall be confirmed, and when so confirmed shall be entered in a book kept for that purpose. All objections to said assessment shall be in writing, and filed with the city clerk at least one day prior to

the said meeting of said common council. *Provided*, That the said council may, in its discretion, allow any party interested, who has accidentally or inadvertently omitted to file his objections aforesaid, to do so at the time of meeting of said council aforesaid. Should no quorum be present said appointed meeting of said council, the said meeting may be adjourned by the member or members of said council present, or if none of the members are present, by the city clerk, to such other convenient time and place as may be deemed expedient. *Provided*, that nothing herein contained shall preclude the said council from causing a new notice aforesaid to be given of a meeting of the said council for the purpose of hearing objections to said assessment, and for the confirmation thereof in manner as before required, in case the previous shall be found imperfect, or in case of defect in the attendance of the members of said council, or for any other reason which shall be satisfactory to said council for so doing. The said council shall have the power to adjourn such hearing from time to time, and shall have power in their discretion to revise and correct the said assessment and proceed to make an assessment, *de novo*, without any further delay. Said assessment, when confirmed, shall be final and conclusive upon all parties interested therein, except as hereinafter provided. When said assessment is confirmed, and when no appeal is taken thereto, as herein provided, a warrant under the seal of said board, shall issue to the treasurer of said city, for the collection of the same, from the property on which the same has been assessed, signed by the mayor and city clerk. If said assessment shall be set aside by the said council aforesaid, or by the court, the said council shall proceed, *de novo*, to make another or new assessment, and they shall proceed in like manner and give the like notice as herein required in relation to the first, and all parties in interest shall have the like rights, and the said council shall perform like duties, and have like powers in relation to any subsequent determination, as are hereby given in relation to the first. As soon as practicable after the said assessment has been confirmed and entered, the clerk of said court shall cause a brief notice of the fact of such confirmation and entry to be published in the official paper of said city, at least three successive days upon which said paper is published.

SEC. 15. Any person whose property has been appropriated and who has filed objections to said assessment as hereinbefore provided, shall have the right at any time within 20 days after the first day of publication of said notice provided for in the next preceding section, to appeal to the district court of the county of Dakota of this state, at the next general term of such court then ensuing, from the order confirming said assessment. Said appeal shall be made by filing a written notice with the city clerk, specifying the name of the court in which the appeal is taken, and a description of the property of said appellant so appropriated, and the objections of said appellant to such assessment, and by filing with the clerk of said court, a bond to the city of West Saint Paul, conditioned to pay all costs which may be awarded against the appellant, in such sum and with surety as shall be approved by the judge of said court, or in case of his absence or inability to act, by the judge of any court of record in this state, together with a copy of such notice with the date of filing thereon

certified by the city clerk. In case of appeal, a copy of the assessment roll as confirmed aforesaid, and the objections as aforesaid made to the confirmation thereof certified by the city clerk at the expense of the appellant, shall be filed in the office of the clerk of the court 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 West Saint Paul, as an "appeal from assessments." The said cause shall then be at issue and shall have the preference in order of trial over all civil causes pending in said court. Such appeal shall be tried in said court as in the case of other civil causes except that no pleading shall be necessary, and on such trial the only question to be passed upon shall be, whether the said common council had jurisdiction in the case, and whether the valuation of the property specified in the objections 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 in so far as the same affects the property appropriated aforesaid of the said appellant, from which judgment no appeal or writ of error shall lie.

SEC. 16. When such assessment shall have been confirmed, and no appeal taken therefrom, or if any appeal shall have been taken when judgment shall have been rendered thereon the same shall be 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 to be 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 land taken, the city may require of the complainant a bond with good and sufficient sureties, to hold the city harmless from all loss, cost and expenses, in case any other person should claim such damages. In all cases the title of the land taken and condemned in the manner aforesaid, shall be vested absolutely in the city of West Saint Paul, in fee simple. *Provided, however,* That whenever it may be necessary to condemn any land for the opening, extension or the widening of any street over which any stream of water runs, and which the owner thereof may desire to utilize as a water power, the common council, upon being advised of such fact, may order the taking and condemnation of the necessary land for such street, with the reservation that the owner of such land shall have the right to construct flumes or mill races across, through or under said street, and construct dams above and below said street and flow said land. *Provided,* said flumes, races, dams, or flowing shall be so constructed and used as not to obstruct the public travel in said street.

SEC. 17. 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 (10) days' notice thereof by one publication, 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 (10) 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. 18. When the whole of any lot or parcel of land or other premises under lease or other contract, shall be taken for the purpose 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.

SEC. 19. 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, 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 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.

SEC. 20. Any proceedings taken by the said common council in carrying out the provisions of this chapter, shall be recorded in a book or books kept for that purpose by the city clerk, describing particularly the respective improvements, and the real estate taken and assessed. The said book in which said proceedings have been entered aforesaid, and the official files and papers of said common council, shall be deemed public records, and *prima facie* evidence of the facts therein stated ; and certified copies thereof by the clerk, or officer having proper custody thereof, with the seal of said council attached, shall be evidence in all courts to the same effect as if the original were produced.

The city clerk shall be entitled to receive from any party for any certified copy or transcript aforesaid, furnished said private party, the like fees as are received for such services by the clerk of any court of record in this state.

SEC. 21. It is hereby made the duty of the common council of the city of West Saint Paul, as soon after the passage of this act as practicable, and annually thereafter, at the first meeting in February, to cause proposals to be published in the official paper of said city, in the same manner and for the same length of time as in the case of other public improvements, for the construction, repairing and relaying of such sidewalks as may be ordered built, repaired or relaid by the common council, between the first (1st) day of April and the first (1st) day of November in each year. General plans and specifications, applicable to all sidewalks that may be ordered built, repaired or relaid during the year, by said common council, shall be made and filed with the city clerk at least ten (10) days before the day named

for the receipt of said bids by the said common council, and the work shall be let and placed under contract as now provided by law for the construction, relaying and repair of sidewalks for which an assessment is to be made, except that the bids for the construction, repair and relaying of said sidewalks shall be accompanied by a bond to the city of West Saint Paul in a sum to be fixed by the common council executed by the bidder and two responsible sureties, conditioned that he shall execute the work for the price mentioned in his bid, according to the plans and specifications, in case a contract shall be awarded him, and in case of a default on his part to execute the contract and perform the work, said bond may be sued and judgment recovered thereon by the said city, for the full amount thereof, in any court having jurisdiction of the amount, *and except further*, that in determining the question of what constitutes the lowest, reliable and responsible bidder must be determined by said council, independent and exclusive of the bond required by this section. The common council of said city may cause sidewalks to be constructed, relaid or repaired whenever they deem that the public interest requires it. Whenever said council shall order the construction of said sidewalks, a copy of such order shall be transmitted to the person or persons having the contract for the construction, repair or relaying of sidewalks for the time being, who shall within five (5) days thereafter, cause the sidewalks so ordered constructed, relaid or repaired by the common council, to be built, relaid or repaired as the case may be, and it shall be the duty of the city council, within five (5) days after having been notified by such contractor of the construction, repair or relaying of said sidewalks, to examine the same, and if said sidewalks shall be found to be constructed, repaired or relaid in accordance with the contract therefor, to report the fact to the common council who shall cause an assessment to be made as hereinafter provided. At the first meeting in each and every month after the completion of any such work, the council shall give at least ten (10) days notice by publication in the official newspaper of said city, to the effect that at a certain time and place, they will proceed to make an assessment to tax for constructing, relaying or repairing said sidewalks. Said notice shall briefly describe the location and nature of said improvements, and shall be published at least three (3) times, which period of ten (10) days shall commence with the first publication of said notice at the time and place as may be fixed by adjournment; the said council shall assess the amount as nearly as they can ascertain the same, which will be required to defray the cost of such improvement, including the necessary expense of making and collecting such assessment upon the real estate or lots of land fronting on said improvement. In making said assessment the said expense and costs shall be apportioned in accordance with the number of lineal feet of said real estate or lots of land fronting on said improvements as aforesaid. When said assessment is completed, the said council shall give six (6) days' notice by one (1) publication in the official newspaper of the city, to the effect that at a time and place therein specified, the said assessment will be confirmed, unless cause is shown to the contrary, and the objection must be filed one (1) day before such time of meeting, with the clerk of said board.

Such objections shall be made and filed in the same manner, and said council shall proceed in hearing the same, and have the same power to revise, correct, confirm or set aside such assessment, or proceed, *de novo*, as provided in section fifteen (15) of this chapter. Said assessment, when confirmed, shall be final and conclusive, and no appeal shall lie therefrom. A warrant shall issue for the collection thereof, and said assessment shall be enforced and collected as other assessments made under this chapter. Whenever the said contractor shall fail to build, repair or relay any sidewalk within the time designated by the common council, or in any other respect fail to comply with the terms of his said contract, the said council shall have power to furnish and use men and material to complete the work and charge the expense to the contractor, and the same shall be deducted from any money due him, or to become due, from any such contractor, or may be collected from him by a suit by the city, or said common council may re-advertise for bids, for the completion of the unexpired term of said contract, and let a contract in the same manner as hereinbefore provided in the original contract. In case the said contractor shall proceed to properly perform and complete his said contract and all the provisions, clauses, matters and things therein contained, the said common council may, upon said contractor filing with the city clerk, an affidavit that all the work and labor of which an estimate is asked is fully paid for, from time to time, as the said work progresses, grant to said contractor, every thirty days, an estimate of the amount already earned, reserving, however, fifteen (15) per cent. therefrom: *Provided, however*, that said fifteen (15) per cent. shall be included in the final estimate allowed said contractor: *Provided, however*, that nothing in the foregoing section shall be construed to prevent any property owner from constructing his or her own sidewalk, under the authority and direction of the city council, provided said sidewalk shall have been constructed before a sidewalk had been ordered in front of the property by the common council. In that case the property owner shall have no authority whatever in the premises, to construct said sidewalk, but the same shall be built by the city, as provided by law.

SEC. 22. Whenever any order shall be passed by the common council of said city as heretofore provided, for filling, grading, leveling, paving, curbing, walling, bridging, graveling, macademizing or planking any street, lane, alley or highway; or for filling, grading, protecting, improving or ornamenting any public square; or for constructing area walls, gutters, sewers and private drains, the said council shall cause the said work to be let and done as hereinafter provided; and after the whole of said work shall have been placed under contract as hereinafter provided, the said council shall thereupon proceed, without delay, to assess the amount as nearly as they can ascertain the same, which will be required to defray the cost of such improvement, including the necessary expense of making such improvement, in proportion, as nearly as may be, to the benefit resulting thereto, in the manner hereinafter provided.

SEC. 23. Before proceeding to make an assessment for any improvement mentioned in section twenty-two (22), said common council shall give six (6) days notice by publication in the official paper

of said city, of the time and place of their meeting for the purpose of making such assessment, in which notice they shall specify what such assessment is to be for, and the amount to be assessed; said notice shall be published at least two (2) times, and said period of six days shall commence from the first (1st) publication. The said board shall also give at least four (4) days personal notice to the same effect to all property holders interested, or their agents, resident in the city of West Saint Paul, or known to the said council and found, but the failure to give such personal notice shall in no wise affect the validity of said assessment, or of any of the proceedings. All persons interested in any such assessment, shall have the right to be present and be heard, either in person or by counsel, and the said council may, in their discretion, receive any legal evidence, and may adjourn, if necessary, from time to time, and place to place. The personal notice required by the above section, may be made by depositing in the West Saint Paul post-office, a postal card, addressed to the property owners to be assessed, or their agents, resident in West Saint Paul, at least four (4) days prior to the making of an assessment, upon which card shall be either printed or written substantially what the published notice is required to contain, but the failure to give such personal notice shall in no wise affect the validity of said assessment or of any of the proceedings.

SEC. 24. When the common council shall have completed their assessment provided for in sections twenty-two (22) and twenty-three (23), they shall cause like notice to be given of the time and place when said council shall meet to hear objections, and for the confirmation of such assessment, as hereinbefore required in relation to assessments for the condemnation of real estate; and objections shall be made in like manner, and under the same regulations and conditions, and all parties in interest shall have the like rights (except the right of appeal), and the said common council shall perform the like duties, and have like power in relation to such assessments as are herein given in relation to such assessments for the condemnation of real estate. When confirmed by the said common council, said assessments 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 council shall proceed, *de novo*, to make another or new assessment in like manner, and give like notice as herein required in relation to the first.

SEC. 25. Whenever any public improvement shall be ordered for which an assessment is to be made, as aforesaid, the said common council shall cause proposals for doing said work, to be advertised in the official paper of said city, a plan or profile of the work to be done, accompanied with specifications for the doing of the same, being first deposited with the clerk of said board, to be kept by him at all times open for public inspection; which advertisement shall be published for at least ten (10) times in said official paper and state substantially the work to be done. The bids for the doing of said work shall be sealed bids, directed to the common council of the city of West 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 of

West Saint Paul, in the sum of not less than twenty (20) per cent. of the cost of the work, according to the price bid, as nearly as can be ascertained, executed 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 said city, for the full amount thereof, in any court having jurisdiction of the amount. Said bids shall be opened by said council at their next meeting after the time limited for such proposals, or such other time thereafter as said council may appoint, and it is hereby made the duty of the council in case of the default hereafter of any contractor, to complete his contract with the city within the time limited in said contract, or within the time to which said contract may have been extended by the common council, to cause suits to be commenced forthwith, upon the bond executed and delivered to the city, in accordance with the provisions of this section.

SEC. 26. 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 council the performance of said work, whereupon a contract shall be made on the part of said council, in the name of the city of West Saint Paul, and shall be executed on the part of said city, by the president of said board, or such of their members as the said council may designate, and the seal of said council shall be thereto attached, and the said contract shall be countersigned by the city clerk, and registered in a book kept by him for that purpose. *Provided*, that said council 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 council in favor thereof.

SEC. 27. The said common council shall reserve the right in their said contracts, in case of improper construction, to suspend the work at any time and relet the same, or to order the entire reconstruction of said work if improperly done. In cases where the contractor or contractors shall proceed to properly perform and complete the said contracts the said council may, from time to time, in their discretion, as the work progresses, grant to said contractor or contractors an estimate of the amount already earned, reserving fifteen (15) per cent. therefrom, which shall entitle said contractor or contractors to receive the amount which may be due thereon, when there is money applicable to the payment of such work. When the whole work has been completed by such contractor or contractors, to the satisfaction of the council, the amount or balance due him shall be audited and allowed by the common council of said city, and shall be payable out of the moneys applicable to the payment of such work.

All estimates of the city engineer, or engineer employed by the council, for work done under any and all contracts, shall be made out monthly, and so allowed by the common council; and in no case shall semi-monthly estimates for such work be given or allowed, except

final estimates, which may be given and allowed at any time after the allowance of the preceding estimate.

SEC. 28. Two or more of the notices required or authorized by this act to be given by common council, 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 object, *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, or the delivery to him of all special assessment warrants for collection, and of his intended application to some court of general jurisdiction for judgment thereon, provided for by this chapter. *Provided further*, that all notices under this act, or any act amendatory thereof, required, or which may or is to be given under this act, or any act amendatory thereof, by publication in the official paper, shall be deemed sufficient and legal, if published on the regular publication day of said official paper, and Sunday shall be considered a day, and be counted for the purpose of this act. *Provided, also*, that in all cases where the provisions of this act require the publishing of official notices either by the common council or by any officer of said city, the posting of such notices in three most conspicuous places, designated by said council, in said city, on bulletin boards provided by said council for such purpose, during the number of days required for publication of such notices by the provisions of this act, shall constitute and be held to accomplish such publication, but the city clerk shall take care that such notices are protected from storm or other injury, and if by any reason they should become defaced or injured, the officers posting such notices shall report the same, and see that they are maintained during the whole time required for publication by this act. The said council shall have the option of directing either the publishing or posting of all city notices.

SEC. 29. When any special assessment shall have been confirmed it shall be the duty of the city clerk to issue a warrant for the collection thereof, which shall be under the seal of said council, and signed by the mayor and city clerk, and shall contain a printed or written copy of the assessment roll as confirmed as aforesaid, or so much thereof as describe the real estate and the amount of the assessment in each case. In case of an appeal, as provided for in section 15, said appeal shall not delay or affect the collection of the assessment under such warrant, except as to the property of such appellant appropriated aforesaid. And in case such appeal shall be sustained, and the assessment in relation to said property appropriated of said appellant shall be set aside by the court, the council shall make a new assessment as to the property of such appellant last mentioned, proceeding *de novo*, as to the same in accordance with the provisions relating to improvements referred to in section seven; and in case the amount of damages or recompense which said common council may award such appellant upon such new assessment shall exceed the first, the common council shall make a new assessment upon the property to be benefited, to pay the difference which may have been awarded ap-

pellant, together with the costs and expenses of such new assessment.

SEC. 30. All warrants issued for the collection of special assessments shall be delivered by the clerk to the city treasurer, taking his receipt therefor.

SEC. 31. 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 payment at his office, and that in default thereof the same shall be collected at the cost and expense of the persons liable for the payment of such assessments. Upon the receipt of a warrant for the collection of a sidewalk assessment the city treasurer shall forthwith give notice by three 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 payment at his office, and that in default thereof the same will be collected at the cost and expense of the person liable for the payment of such assessment.

SEC. 32. All assessments levied under the provisions of this chapter, shall be a paramount lien on the real estate on which the same may be imposed, from the date of the warrant issued for the collection thereof.

SEC. 33. If twenty-five (25) per cent. of the assessment charged in any special assessment warrant, whether made by the appropriation or condemnation of land or for any other improvements whatsoever under the provisions of this chapter, shall not be paid within sixty (60) days after the first publication of notice by the city treasurer that he has received such warrant for collection (except in case of a collection warrant, issued on or by reason of a reassessment or new assessment, in which latter case the notice that such warrant is in the treasurer's hands shall only be published five (5) days), the entire assessment then remaining unpaid shall be collected with interest at the rate of one (1) per cent. per month for each and every month thereafter until the same is paid. *Provided*, that if twenty-five (25) per cent. of such assessments is paid within sixty (60) days as above specified, the remaining seventy-five (75) per cent. of the same may be paid in three (3) equal annual installments of twenty-five (25) per cent. each, due respectively in one (1), two (2) and three (3) years (with interest at eight (8) per cent. per annum, payable annually,) from the date of first publication by the city treasurer, as provided in section thirty-one (31) of this chapter, at the option of the owner of the property so assessed; but if default shall be made for sixty (60) days in the payment of any one of the above specified sums of twenty-five (25) per cent. of the original assessment, then and in that case the whole amount of such assessment then unpaid shall become due and payable; and it shall be the duty of the city treasurer to apply to the district court of said Dakota county for judgment against all property on account of which assessments remain unpaid as above specified, and to proceed in all respects according to the provisions of this act in cases of unpaid assessments.

SEC. 34. It shall be the duty of the city treasurer, immediately after the expiration of the sixty (60) days, (or after ten (10) days on the reassessment or new assessment warrants, mentioned in the preceding section,) to report to the district court of Dakota county, at any general or special term thereof, all assessment warrants for the collection of any assessments under the provisions of this chapter which have been delivered to him, on which any sums remain unpaid, and then and there ask for judgment against the several lots and parcels of land described in such warrants, for the amount of assessments, interests and costs respectively due thereon. The city treasurer shall previously give at least ten (10) days notice by three (3) publications in the official paper of said city, of his intended application for judgment, which notice shall briefly specify the respective warrants upon which such application is to be made, and a description of the property against which judgment is desired, and require all persons interested to attend at said term; said period of giving notice shall begin from the first publication of said notice. Said treasurer shall also give five (5) days personal notice to the same effect, to all property holders interested, or their agents resident in the city of West Saint Paul, if known to the said treasurer and found, but the failure to give such personal notice shall in nowise affect the validity of the judgment applied for or of any of the proceedings. The advertisement so published shall be deemed and taken to be sufficient and legal notice of the aforesaid and intended application of the city treasurer, to such court for judgment, and shall be held a sufficient demand and refusal to pay the said assessment.

SEC. 35. The city treasurer shall obtain a copy of the advertisement or advertisements referred to in the preceding section, together with an affidavit of the due publication thereof, from the printer or publisher on 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.

SEC. 36. The clerk of said court, upon the filing of such reports of the city treasurer, shall receive and preserve the same, and shall annex thereto or file therewith all judgments, orders and other proceedings of said court in relation thereto. Each of said reports shall constitute a separate proceeding or suit, and shall be docketed by the clerk of said court in a suitable record book, to be kept by him for that purpose substantially in the following form, to-wit: City of West St. Paul, vs..... certain lots of land
 suit for assessment on warrant
 for..... or in such other manner
 as will sufficiently indicate the nature of the improvement for which the assessment is made, in which said record book the judgment when rendered shall also be docketed. *Provided however,* that the court may by rule or otherwise, direct how and in what form such proceedings and judgments may be entered or docketed, and what further record, if any, shall be made thereof, and what papers shall be filed and how kept and preserved.

SEC. 37. It shall be the duty of the court upon the filing of said reports to proceed immediately to the hearing of the same, and they shall have priority over all other causes pending in said court. The

said court shall pronounce judgment against the several lots and parcels of land described in said reports, for which no objection shall be filed for the amount of the assessment, interest, damages, and costs due severally thereon. The owner of any property described in said reports, or any person beneficially interested therein, may appear at the 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. No objection shall be interposed or sustained in relation to any of the proceedings prior to the confirmation of the assessment, except that the common council had no authority to order the said improvement; and no objections as to any other of the proceedings shall be sustained on any mere formal irregularity or defect, and the city treasurer may amend by leave of the court in its discretion, in any matter in furtherance of justice. The court shall hear and determine all objections in a summary manner without pleading, and shall dispose of the same with as little delay as possible, consistent with the demands of public justice; but should justice require that for any cause the suit as to one or more owners should be delayed, judgment shall then be rendered as to the other property and lands, and process shall issue for the sale thereof, the same as in all other cases.

SEC. 38. In all cases where judgment shall be rendered by default against the property described in said reports, the court shall thereupon direct the clerk of said court to make out and enter an order for the sale of the same, which said order shall be substantially in the following form:

WHEREAS, due notice has been given of the intended 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, interest and costs due and unpaid thereon; *Therefore, it is considered by the court that judgment be and is hereby entered against the aforesaid lots and parcels of land in favor of the city of West Saint Paul, for the sum annexed to each lot or parcel of land, being the amount of assessment, interest, damages and costs due severally thereon; and it is ordered by the court that the several lots and parcels of land, or so much thereof as shall be sufficient of each of them to satisfy the amount of assessment, interest, damages and costs annexed to them severally, be sold as the law directs.*

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. Fifteen (15) cents costs shall be laid to each lot against which judgment is rendered, and the further sum of one dollar (\$1) to each lot for advertising the notice of sale; *provided, that in all cases where a defense is interposed and not sustained, the court may direct by special order or by rule such additional costs to be included in the judgment as may be deemed proper.*

SEC. 39. It shall be the duty of the clerk of such court within twenty (20) 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 assessment, interest, damages and costs so levied, assessed or charged upon them; and the said city treasurer is hereby authorized and empowered to make sale of such lands, lots, pieces or parcels of land or other property, upon ten (10) days notice, to be published at least three (3) times in the official paper of said city, which period of ten (10) days shall commence with the first publication.

SEC. 40. The said advertisement, so to be published in each case of a judgment upon any collection warrant and report as aforesaid, shall contain a list of the delinquent lots and parcels of land to be sold, the names of the owners, if known, the amount of judgment rendered thereon, respectively, and the warrant upon which the same was rendered, the court which pronounced the judgment, and a notice that the same will be exposed to public sale at a time and place to be named in said advertisement, by said city treasurer. The omission of the name of any owner, or any mistake respecting the same, shall not invalidate the sale, if the property be otherwise described with sufficient certainty. The proceedings may be stopped at any time upon the payment of said judgment to the city treasurer.

SEC. 41. 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. 42. Certificates of sale shall be made and subscribed by the city treasurer, under the seal of the city of West Saint Paul, duly acknowledged before a notary public, and signed by two witnesses, which shall be delivered to the purchaser, of which certificates of sale shall contain the name of the purchaser, a description of the premises sold, the amount of the judgment for which the same was sold, adding interest at the rate of twelve (12) per cent. per annum, from the date when judgment was rendered to the day of sale, and fifty (50) cents costs on each description, for such other expense as may be incurred by the city in selling the property, with 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. 43. 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. 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.

SEC. 44. The city treasurer shall enter and extend upon the certified copy of judgment and order of sale issued to him by the clerk of the district court, the interest, costs and expenses to be charged against each lot or description as provided by law, amount of sale, to whom sold, or if struck off to the city, to whom transferred afterwards, with the amount of transfer, and attach thereto a copy of the adver-

tisement pertaining to the sale. The city treasurer shall keep this record on file in his office. Certified copies thereof may be furnished when desired.

SEC. 45. 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 case of sales of real estate for taxes, on payment in lawful money of the United States of the amount for which the same was sold, with interest from the time of such sale, at the rate of twelve (12) per cent. per annum, and any other assessments which may be made under or by virtue of this chapter, or the charter of the city of West Saint Paul, subsequent to the sale, with the interest accruing thereon at the rate, and payable in accordance with the provisions of section thirty-five (35). If the real estate of any lunatic or infant be sold under this chapter, the same may be redeemed at any time within one (1) year after such disability shall be removed. Redemption shall be made by a payment of the redemption money to the city treasurer, and upon such payment, the city treasurer shall execute to said redemptioner, a certificate of satisfaction of said assessment, judgment and lien, upon the return of the certificate of sale, or proof of its loss, and the filing with the city clerk, 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 of said city, signed by the mayor and city clerk, conveying to such person or assignee the premises so sold and unredeemed as aforesaid.

Provided, however, That at least thirty (30) days notice, and by at least five (5) publications prior to the time when the right of redemption will expire, on any certificate issued by the city treasurer for the non-payment of any assessment, the clerk shall cause the notice to be published in the official paper of the city, and deeds will be issued by the city of West Saint Paul, at the expiration of the time of the redemption, to the holder of any certificate aforesaid, unless sooner redeemed, giving the number of the certificate, description of property, amount sold for, what improvement issued for, the owner's name as appears on the treasurer's books, and the date of the expiration of the time of redemption. A memorandum of all deeds made and delivered shall be entered by the city clerk in the book wherein such sales are recorded, and a fee of one dollar (\$1) may be charged by the clerk for every deed so issued. *Provided,* that nothing in this act contained, shall be construed to affect or prejudice the lien of the state, for all taxes which have been or may be levied on such property under the general laws of the state. In cases of redemption the city treasurer shall notify the person holding the certificate of sale, that the amount of such certificate with interest thereon so paid, is in the city treasury, subject to his disposal.

SEC. 46. Such certificate of purchase shall be assignable by endorsement, and an assignment thereof shall vest in the assignee, or his legal representatives, all the right and title of the original purchaser.

SEC. 47. Whenever it shall appear, before the execution of a deed for any property sold for assessments, that such property is not subject to assessment, or the assessment has been paid previous to the

sale, he shall, with the approval of the common council of said city, make an entry opposite such property on his record of sales, that the same was sold in error, and such entries shall be *prima facie* evidence that requirements of the law, with respect to the sale, have been duly complied with, and of title in the grantee therein, after the time for redemption has expired; and no sales shall be set aside, or held invalid, unless the party objecting to the same shall prove either that the court rendering judgment, pursuant to which the sale was made, had not jurisdiction to render the judgment, or that after the judgment and before the sale such judgment had been satisfied, or that notice of sale as required by this act was not given, or that the piece or parcel of land was not offered at sale to the bidder who would pay the amount for which piece or parcel was to be sold, nor unless the action in which the validity of the sale shall be called in question be brought, or the defense alleging its invalidity be interposed, within three (3) years after the date of the sale; and if any sale shall be set aside by reason of any defect in the proceedings subsequent to the entry of the judgment, the court so setting aside the sale shall have power in such case, to order a new sale, to be made as near as may be in accordance with the provisions of this act. That in any action hereafter commenced, in which the validity of a deed is brought into question, and on account of any irregularities, the same shall be set aside, the party holding such deeds shall recover from the adverse part the amount paid for such deeds to the city, with interest thereon from date of sale, at the rate of twelve (12) per cent. per annum. All deeds referred to in this chapter shall be admitted to record with prepayment of taxes, or the county auditor's certificate that the taxes have been paid.

SEC. 49. Any change made in the incumbent of the office of the city treasurer during the pendency of any such proceedings, shall not operate to affect or delay the same, but the 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 city clerk until such vacancy is filled by election or otherwise.

SEC. 50. All sales of property for the non-payment of assessments provided for in this chapter, shall be made in the day time at public vendue, in the City of West Saint Paul, at the time and place stated in the notice of sale prescribed in sections forty-one (41) and forty-two (42) of the chapter, and may be adjourned from day to day (Sundays excepted), until the whole is completed.

SEC. 51. Any 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 evasions 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.

SEC. 52. No error or omission which may hereafter be made in the

order, or in the proceedings of the common council, or of any of the officers of said city in referring, reporting upon, ordering or otherwise acting, concerning any local improvement provided for in this chapter, or in making any assessment therefor, or in levying and collecting such assessment, not affecting the substantial justice of the assessment itself, shall vitiate or in any way affect such assessment. The reports of the city treasurer and assessment warrants held by him, referred to in section thirty-six (36) of this chapter, shall be *prima facie* evidence that the proceedings up to the date of such warrants were valid and regular, and the certificates of sale issued as provided for in this chapter shall be *prima facie* evidence of the validity and regularity of all proceedings up to the date of such certificates.

SEC. 53. No purchaser of lands or lots, or other property sold for assessments, or his heirs or assigns, shall be entitled to a deed until he or they shall have paid all assessments made thereon prior or subsequent to the assessment under which such purchase was made. The amount of all such prior or subsequent assessments so paid by any such purchaser, his heirs or assigns, and all moneys paid by such purchaser, his heirs or assigns, to redeem the premises from any sale for any such assessment, shall be a lien on the premises in his favor, and the amount thereof with interest at one (1) per cent. per month from the time of such payment or redemption shall be refunded to such purchaser, or to be paid to the treasurer of said city for the use of such purchaser, his heirs or assigns, by the owner or person entitled to redeem, before any exemption shall be made, except as provided in the section next following.

SEC. 54. After any real estate shall have been bid in or struck off to the city, said city may enter upon said real estate and take possession thereof, and through and 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. *Provided*, That if any lot or parcel of land so struck off to said city, shall be again sold for like assessments, while the said city holds its title as purchaser aforesaid, the same shall not be sold to any purchaser, except said city, for less than the amount actually remaining unpaid on the preceding assessment, as well as such subsequent assessment with interest aforesaid at the rate of twelve (12) per cent. per annum.

SEC. 55. All judgments rendered under this chapter upon said assessments shall bear interest at the rate of twelve (12) per cent. per annum from the date thereof until paid.

SEC. 56. The city treasurer of said city may, at any time before or after the time of redemption has expired assign any certificates of sale of property aforesaid, to any person by endorsement thereon, after payment by such person into the city treasury of the amount at which the same was so bid in, together with the amount of any prior assessment, with interest thereon at the rate of twelve (12) per cent. per annum and costs, and such assignee shall have the same right and title thereunder as if he had purchased the same originally at the sale, and shall be entitled to a deed as in other cases. *Provided*, That after the expiration of the time of redemption of any certificate of sale of property, if the same shall remain unredeemed, the mayor, common council and city treasurer, or a majority thereof, may author-

ize the city treasurer to sell, assign and transfer the interest of the city in and to any such certificate, for such sum or price as to them may appear for the best interest of the city.

SEC. 57. If in any case the first assessment to pay local improvements, either before or after such improvement is completed, shall prove insufficient to fully pay for the same, the common council may assess and re-assess the same upon the property 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.

SEC. 58. In all cases where the treasurer shall be unable to enforce the collection of any special assessment, the common council are authorized and empowered, to cause a new warrant to the treasurer, for the collection of any assessment which, by reason of such irregularity or omission, remains unpaid or not collected. The treasurer shall proceed under such new warrants to enforce and collect the assessments therein specified in the same manner, as near as may be, as is prescribed by the provisions of this chapter for the enforcement and collection of special assessments, after the same shall have been confirmed, as in this chapter provided; and as often as any failure shall occur, by reason of such irregularities or omissions, a new warrant may issue and new proceedings be had in like manner, until such special assessment shall be fully collected, as to each and every tract and parcel of land charged thereby.

SEC. 59. In all cases where the work for any improvement contemplated by the provisions of this chapter shall be suspended, before final completion, by the failure of the contractor to perform the same, or for any other cause, the common council may relet the unfinished portion of such work in the same manner as near as may be, as provided in this chapter for the letting of contracts for public improvements, and in every case of such new contract, the work shall be paid for in the same manner as contracts for other like improvements.

SEC. 60. Property owners may be allowed to construct streets and other public improvements upon or through their own property, at their own expense, in such cases and upon such terms, and under such regulations as the common council may prescribe, from time to time, by ordinance.

SEC. 61. It shall be deemed personal notice in all cases under the provisions of this chapter, where personal notice is required, when the notice is served by delivering a copy, or by reading the same to the person to be notified, or by leaving a copy at his or her last usual place of abode, or at his or her place of business, with some person of suitable age and discretion, or by leaving a copy in a conspicuous place at his or her place of business, in the day time if such person is absent therefrom.

SEC. 62. If the common council, in carrying out the provisions of this chapter, should find unforeseen obstacles in grading, excavating, filling, paving, or in any case of improving or on 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, either 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-thirds vote of the common council elect; and additional expenses occasioned by such change or modification of the improvement may be excluded 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-thirds 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 causing of 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 common council, and a copy thereof shall be signed by the bidder and attached to his bid, and the same shall be attached to and made a part of the contract; but no additional expense shall be incurred other than may be absolutely necessary to overcome such unforeseen obstacles. The said common council 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 by reason of such error, omission or mistake the assessment shall be reduced below the amount of money required to pay the costs and expenses of said improvement, the common council may make a new assessment upon the property benefited to make up the deficiency, together with the costs and expenses of such new assessment; *provided*, that five (5) days notice of the time and place of making such correction shall be given by one (1) publication of 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-thirds 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-thirds vote of the members elect after such re-cision, order the work to be relet as other work is let under this chapter, and the original contractor 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. 63. When any notice is required to be published in any newspaper, under this chapter, an affidavit of the publisher or printer annexed to a printed copy of such notice, taken from the paper in which it was published, and specifying the time when and the paper in which,

such notice was published, shall be evidence in all cases and in every court or judicial proceeding, of the fact contained in such affidavit.

SEC. 64. No money shall be paid from the treasury upon the condemnation or appropriation of any property until there is sufficient fund in the treasury properly applicable thereto, to pay the total damages awarded, and if such damages shall remain unpaid or unprovided for, for nine months after the assessment for damages and benefits shall be finally determined as to all the property involved, the proceedings shall lapse, and all moneys paid into the treasury upon such condemnation shall be returned to the parties entitled thereto.

SEC. 65. If for any cause the proceedings of the common council or any of its officers may be found irregular or defective, whether jurisdictional or otherwise, the common council may order a new assessment from time to time, and as often as need be, until a sufficient sum is realized from the real estate benefited by such improvement to pay all the costs, damages and expenses incurred thereby, it being the true intent and meaning of this act to make the costs and expenses of all public improvements provided for in this chapter, local to the city of West Saint Paul, payable by the real estate benefited by such improvement to the extent of such benefits, except that in case of the sidewalks the assessment shall be made as in such cases provided.

SEC. 66. 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. 67. It shall be the duty of the common council in estimating the benefits to any particular lot, piece or parcel of land, to take into consideration the nature of the owner's interest therein, the form and position of their several parcels of land, the qualified rights of the owner in reference to its enjoyment, and in any other circumstances which render the proposed improvement more or less beneficial to him or them, and the determination and assessment or estimate of benefits of said council shall be final, except where an appeal is expressly allowed under the act to which this is amendatory.

SEC. 68. If in the opinion of the common council, any work under any contract, does not proceed each month so as to insure its completion within the time named in the contract, the said council shall have power to furnish and use men and materials to complete the work, and charge the expense thereof to the contractor, and the same shall be deducted from any moneys due him or to become due such contractor, or may be collected from him in a suit by said city.

SEC. 69. The register of deeds shall not record any deed from a private person or private corporation, unless there be endorsed on such a deed a certificate of the city treasurer, that all assessments for local improvements have been paid, and any violation of this provision by the register of deeds shall be a misdemeanor, and be punished by a fine not exceeding double the amount of the unpaid assessment. It shall be the duty of the city treasurer upon the application of any person interested in such deed, where the assessment has been paid, and not otherwise, to make such certificate free of charge, but the city treasurer shall not certify that said assessment has been paid in any case

where the property has been purchased by said city at the sale provided for in this act, and time for redemption has not expired, and the city still holds the certificates of sale.

SEC. 70. In the assessments of damages and benefits for the opening of any street or alley, it shall be lawful for the common council, in their discretion, in making such assessments, should there be any building in whole or in part upon the land to be taken, as aforesaid, to consider the propriety of letting said building remain upon such land to be taken as aforesaid for such time after condemnation, as they may deem for the best interest of the city, and if they shall determine to let the building remain on said land for any given period, then they shall determine the value of the use of said land to the owner of said building for the time said building may be permitted to remain, which sum shall be deducted from the award of damages made to such owner or owners of said property.

SEC. 71. That it is hereby made the duty of the common council, at their first meeting after their approval of any contract let for any public improvement for which an assessment is to be made, to proceed without any unnecessary delay to the completion and confirmation of the assessments for the benefits, damages, costs and expenses for said improvement, and that no contract shall ever be let while there are as many as five public improvements pending before said council, for which a contract has been let, and for the payment of which improvement an assessment is to be made, to pay the damages, costs and expenses incurred thereby, and for which no assessment has been made by said council. And no contract for any public improvement for which an assessment is to be made, shall ever be let by the common council after the first (1st) day in August in any year, until all the assessments upon contracts previously made during that year for any public improvement for which an assessment is to be made shall have been made and completed.

CHAPTER VII.

STREET GRADES.

SECTION 1. The common council shall cause to be established, under the direction of an engineer, the grade of all streets, sidewalks and alleys in said city, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Dakota county.

SEC. 2. Such grade may at any time thereafter be altered by a two-thirds vote of all the members elect of the common council, and after notice by publication in the official newspaper of said city for three (3) successive weeks, at least twice in each week, of the time and place when the said council will consider such proposed alteration. *Provided*, that in case a change of an established grade shall be ordered by the common council, notice of such order shall be published in the official paper of the city, and any property holder feeling himself aggrieved by such order, may, within ten (10) days after the publication of such order, appeal therefrom to the district court of the

county of Dakota, in the manner provided for appeals in section nine (9) of chapter four (4) of this act. On the trial of such appeal, said court shall have full power to determine the necessity or expediency of such proposed change of grade, and all other questions involved in such appeal; and such order of the common council shall not take effect until twenty (20) days from its publication aforesaid, nor pending such appeal.

SEC. 3. After such alteration shall have been finally determined as herein provided, the common council shall proceed to assess the damages, if any, to property occasioned by such alteration, and also to determine what real estate, if any, will be benefited by such alteration, and to assess upon such property benefited the amount of such damages, together with the costs of proceedings. *Provided*, that in case property benefited cannot be found to pay for the whole amount of such damages and costs, the deficit shall be paid out of the general fund.

Provided, that when the cost of change of grade does not exceed two hundred dollars (\$200) no assessment shall be made to pay the same, but shall be paid for out of the general fund or ward fund of the ward in which the improvement is made, at the option of said council.

SEC. 4. Any party aggrieved by such assessment of damages may appeal under the same regulations and restrictions, and in the same manner provided in section sixteen (16) of said title one (1); but such appeal shall not operate to stay any of the proceedings in the matter of such alteration.

SEC. 5. All such damages allowed after deducting benefits, if any, shall be advanced out of the general fund and paid to the party entitled thereto.

SEC. 6. All assessments of benefits aforesaid, shall be collected and enforced in the same manner as in the case of other local improvements provided for in this chapter, and the collections therefrom shall be credited to the general fund.

CHAPTER VIII.

EDUCATION.

SECTION 1. That the city of West Saint Paul shall constitute one school district, and all schools organized therein under this act shall, under the direction and the regulation of the common council of said city be public and free to children residing within the limits therein between the ages of five (5) and twenty-one (21) years, inclusive, subject to such rules and regulations as the said common council may establish.

SEC. 2. The territorial limits of said school districts shall be co-extensive with the limits of said city of West Saint Paul, as created by this act, or as the same may be hereafter enlarged or altered, and the said council shall appoint all teachers for said schools, and fix the salary of all teachers and their term of office.

And the said council shall have the power to dismiss or dispense

with the services of teachers or others employed in connection with said school district, and also to abolish any office connected with said school district aforesaid.

SEC. 3. All school moneys collected by any officer of the city of West Saint Paul, or the county of Dakota or the state of Minnesota, or which may be coming to, or owing or due, or that may become due or owing to said school district, shall be paid to the treasurer of said city, who is hereby declared to be treasurer *ex-officio* of said school district of said city, who shall receive the same and keep an account thereof in such a manner as to show at all times the exact financial condition of said school district. He shall pay the same out from time to time as the common council may direct; he shall exhibit to the common council when so requested by them, a full and detailed account of all moneys received and paid out since the date of the last annual report, or for any required term.

SEC. 5. The expense of the schools in said district, and the time of their continuance shall be limited to the amount of the appropriations therefor, or bonds issued therefor, and no deficiency shall be created to be made up by the following year's taxation, and no change in the text books shall be made except by a three-fourths ($\frac{3}{4}$) vote of all the members of said common council, *provided always*, that nothing herein contained shall be so construed as to prohibit the common council from borrowing money to meet the current expenses of the year, but all moneys so borrowed if any, shall be repaid out of the appropriations made for such year as the same shall from time to time be collected, and shall not exceed the sum of such appropriation.

SEC. 6. That the interest and principal of all school bonds, notes, obligations, debts, liquidated accounts, or demands now due or owing or growing out of the school system of the city of West Saint Paul shall be payable and paid by and through the treasury of the city of West Saint Paul, after the same shall have been duly passed and allowed by the city council. No part of the real or personal property shall for the school purposes be subject to execution or sale for any debt or liability against the said city. That orders may be drawn for the payment of all claims for the salaries of the officers, teachers and janitors of said school district, when the same shall have been passed and allowed by the common council, certified by the superintendent of the schools and audited by the city clerk.

SEC. 7. All contracts and leases shall be signed by the mayor, attested by the clerk and the seal of said city be thereto affixed, after which the same shall be kept on file in the office of the city clerk of said city.

CHAPTER IX.

MISCELLANEOUS AND SUPPLEMENTARY.

SECTION 1. The common council shall not have power to relieve any citizen from the payment of any lawful tax or license, or to exempt him from any burden imposed upon him by law, or order or ordain the payment of any demand not authorized and audited according to law; nor shall the common council have power to ordain or authorize any compromise of any disputed demand, or any allowance therefor or therein, except as provided in the contract therefor or the payment of any damages claimed for the alleged injuries to persons or property, except by ordinance, and adopted by a vote of three-fourths ($\frac{3}{4}$) of the council. And no action shall be had or maintained against the city of West Saint Paul for any damages claimed for alleged injuries to persons or property after the first (1st) day of March, one thousand, eight hundred and eighty-nine (1889), unless an action be commenced within one (1) year after a cause of action has accrued.

SEC. 2. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police, or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

SEC. 3. In all prosecutions of any violation of this act, or of any by-law or ordinance of the city of West Saint Paul, the first process shall be a warrant; *provided*, that no warrant shall be necessary in case of arrest of any person or persons while in the act of violating any law of the state of Minnesota, or ordinance of the city of West Saint Paul, but the person or persons so arrested may be proceeded against, tried, convicted and punished, or discharged, in the same manner as if the arrest had been by warrant. All warrants, process or writs, by the city justice for violation of any ordinance or by-laws of said city, shall run in the name of the city of West Saint Paul, and shall be directed to the chief of police or any police officer or marshal.

SEC. 4. In all cases of the imposition of any fine or penalty or of the rendering of any judgment by the city justice, pursuant to any ordinance or by-law of the said city of West Saint Paul, or pursuant to any provision of the charter of said city, as a punishment for any offense, or violation of any by-law or ordinance as aforesaid, the offender shall be forthwith committed to the "county jail or city jail," and there be imprisoned for a term not exceeding three months in the discretion of the city justice, unless the fine or penalty aforesaid be sooner paid or satisfied, and in all cases where the punishment of such offenders shall be by imprisonment, such imprisonment shall be in the said "county or city jail," and from and after the time of arrest of any person or persons for any offense whatsoever, until the time of the trial or hearing, the person or persons so arrested may be imprisoned in the common jail of Dakota county, or in the city prison, and in all cases where the said judge of the municipal court is or may be authorized to commit any person or persons for any other cause by virtue of the provisions of the charter of said city, he may commit such person or persons to said "city jail."

SEC. 5. The city of West Saint Paul shall not be liable in any case for the board or jail fees of any person who may be committed by any officer of the city or magistrate to the jail of Dakota county for any offense punishable under the state laws.

SEC. 6. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

SEC. 7. When any suit or action shall be commenced against the city the service thereof may be had by leaving a copy of the process, by the proper officer, with the mayor; and it shall be the duty of the mayor forthwith to inform the city council, who shall take such other proceedings as may be needful in the matter.

SEC. 8. The city may prosecute an appeal in all cases to the district court, or to the supreme court of the state. The mayor, in case of such appeals, or in an action or proceeding to which the city is a party, and in which a bond may be necessary, shall execute a bond, signed by him and the city clerk, who shall affix the corporate seal thereto, conditioned as may be necessary in said action, proceeding or appeal, but no sureties or justification shall be required for said bond; nor shall the city be required in any case to file a bond or give other security for costs.

SEC. 9. In case any judgment shall be rendered in any court of record against the city for a sum exceeding five hundred dollars (\$500), and no appeal shall be taken therefrom within thirty (30) days thereafter, it shall be the duty of the attorney to file a certified transcript of such judgment with the city clerk. And it shall be the duty of the said common council to include in the next annual levy of taxes to be thereafter assessed and collected a sufficient sum to pay such judgment, with legal interest accrued thereon; the amount so collected shall be credited to the general fund of said city, and said judgment shall thereafter be paid as other claims and demands against said city, but no execution shall issue upon such judgment for a period of six months after the first annual levy of taxes by said city after the date of filing the said transcript of said judgment as aforesaid by the city. *Provided*, that the said common council may order the payment of such judgment at any time after the rendition thereof, if there shall be sufficient moneys in the general fund of said city not otherwise appropriated.

SEC. 10. The following property now, or at any time hereafter, belonging to said city, shall be exempt from levy and sale under or by virtue of any execution: Engine houses, hook and ladder houses, together with the grounds and lots on which they are situated, and all fire engines, carriages, hooks, ladders, buckets, hose or other fire apparatus used by any company created or authorized by the common council of said city; market houses and the furniture thereof; city hall and furniture and office rooms; the public levee, streets, or other real estate used for public purposes; the quarantine grounds and the buildings erected thereon; the fixtures and appurtenances thereof; or any other public property which said city shall own, hold or be interested in for the public use, or the rents, uses, profits or incomes whereof are due and payable to the city treasurer. Nor shall any real or personal property of any inhabitant of said city, or of any individ-

ual or corporation, be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

SEC. 11. All deeds, leases and other instruments executed by said city, for the conveyance of real estate or any interest therein, for a term exceeding one (1) year, shall be authorized by a resolution of the common council, which shall be quoted or referred to in such instrument, and signed by the mayor and city clerk, who shall affix the seal of the city thereto.

SEC. 12. All bonds hereafter to be issued by said city, and all orders on the city treasurer, shall be signed by the mayor and city clerk, who shall affix the seal of the city thereto.

SEC. 13. The said city may lease, purchase and hold such real and personal estate as the common council may deem necessary or convenient, and may lease, sell and convey the same, and the same shall be free from taxation.

SEC. 14. All contracts for work to be done for said city, or for the purchase of materials or property of any kind, for the public use of said city, not otherwise provided for in this act, in which the value of such work, or the price or value of such property or materials, shall exceed the sum of two hundred dollars (\$200), shall be let to the lowest responsible bidder, reserving to the council the right to reject all unreasonable bids. In such case the common council shall require a notice of not less than six (6) days, of the time and place of letting such contract, by publication in the official paper of said city, which notice shall substantially describe the work to be done, and such other particulars as the council may order, and shall designate the time and place when and where sealed proposals shall be received therefor; the said proposals shall be opened and considered by the common council at any regular and stated meeting thereafter or at a special meeting if designated in the notice; and upon any bid aforesaid being accepted, a contract in accordance therewith shall be drafted and submitted to said council, at any regular or special meeting, for its approval, and upon the same being approved and signed by the presiding officer of the council, it shall be executed on the part of the city by the mayor and the city clerk, with the corporate seal of the city attached, and filed with the bond in the office of the city clerk. The said council shall require a bond on the part of the contractor, to be executed with such conditions, and with such sureties, and in such amount as the council may prescribe, for the purpose of securing the performance of the contract; the common council shall also have the power to require every bid to be accompanied by a bond on the part of the bidder, in such sum and with such sureties and conditions as the common council may prescribe.

Contracts for work or for the purchase of materials or property where the value of the work or the price of the property or materials shall not exceed the sum of two hundred dollars (\$200), may be authorized by a resolution of the common council, to be made and entered into by any committee or officer of said city designated in such resolution. *Provided*, That in the event of extraordinary and sudden injury by fire, flood or other unforeseen cause, to any public street, public levee, public building or other public property of said city, whereby such property or adjoining property may be endangered or

damaged, or the public health or safety may require the immediate repair thereof, the said council may authorize the same by resolution passed by a two-third vote of all the members elect, but the cost and expenses thereof shall not in any case exceed the sum of one thousand dollars (\$1,000), and the same shall be paid out of the contingent fund, if there be no moneys in the general or other appropriate fund to pay the same. In case of any contract provided for in this chapter, required to be let upon notice aforesaid, the clerk shall not countersign the same until there shall be sufficient money in the appropriate fund to meet the indebtedness to be incurred by such contract. When the said contract shall have been countersigned by the clerk, he shall immediately thereafter deliver a certified copy thereof to the party or parties named in such contract, and until the delivery of such certified copy the same shall not be deemed the contract of said city, and no work shall be commenced or done thereunder until such contract is so delivered, nor shall the same be accepted by said city, or any accounts, claims or demands allowed, audited and paid therefor.

SEC. 15. Any contractor or person who accepts a contract under said city, shall take the same with the condition that he shall be personally and directly responsible for any and all loss, damage or injury to persons or property, by reason of the neglect or failure of himself or any one in his employ to so perform such work as to guard against all loss, damage and injury to person or property, and shall guard said work by suitable guards by day, and with lights at night, so as to prevent any loss, damage or accident.

SEC. 16. Whenever any public ground, street or alley, shall be laid out, widened or enlarged, under the provisions of this act, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk, and also filed in the office of the register of deeds of Dakota county.

SEC. 17. The city of West Saint Paul shall have the power to take private property for public use upon just compensation therefor being first paid or secured; such power shall be exercised through its common council, or other officers of said city as provided in this act, as may be hereafter provided by law.

SEC. 18. All additions to the city of West Saint Paul, made, laid out and platted, as required by law, shall, before the same takes effect, or is recorded in the office of the register of deeds of Dakota county, be represented to the common council of said city at some regular or special meeting thereof, for acceptance by said city for the dedication of streets, lands, alleys, parks or other public grounds therein.

SEC. 19. Said city shall accept the same, when streets, alleys, lanes, parks or other public grounds thereof, proposed to be dedicated platted, and recorded, so far as is practicable from the topography of said addition and adjacent addition; and the proprietor or proprietors of such new addition shall, when they present their plat for acceptance as aforesaid, also present a plat or map of the additions or addition adjoining the same, if any, showing how said proposed new addition joins and conforms to the streets, alleys, lanes, parks or other public grounds in the older or accepted additions. And the said city of

West Saint Paul shall not be required to work, repair or keep in repair, or otherwise open or improve any street, alley, lane, park or other public grounds in such new addition, until the same has been accepted as aforesaid.

Provided, that all the principal and important streets and avenues in said new addition, shall be at least sixty (60) feet wide, and all alleys, or lanes at least sixteen (16) feet wide.

SEC. 20. No law of this state contravening the provisions of this act, shall be construed as repealing, amending or modifying the same unless such purpose be expressly set forth in such law.

No law of this state contravening the provisions of the act, shall be construed as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

SEC. 21. Every ordinance of said city shall, after its passage, be published in the official newspaper of said city, and shall not be in force until after such publication. The proof of such publication by the affidavit of the foreman, or one of the publishers of such newspaper, with a printed copy of the ordinance annexed thereto, or any other competent proof of such publication, shall be conclusive evidence of the legal passage, enactment, publication and promulgation of such ordinance, in any court in this state.

SEC. 22. The files, papers and records in the office of the city clerk, or any other officer of said city, or copies thereof duly certified by the officer having the same in charge, proofs of publication of all notices, resolutions, orders, or proceedings of the common council required to be published under this act, on file in the proper office, or copies thereof certified by the officer having the same in charge, shall be received and read in evidence in all courts and places without further proof. All printed compilations of the laws and ordinances of the city, and all printed publications of the proceedings of the common council, or any of the officers of said city, if published or purporting to be published, compiled or revised by or under the authority of the said city or any of its officers, shall be admissible in all courts of law, and all other occasions in this state as evidence of such laws, ordinances and proceedings.

SEC. 23. That it is hereby made the duty of the register of deeds of Dakota county, to record any deed or other instrument in which the grantor or grantee in [is] the city of West Saint Paul, without requiring the same to be certified "taxes paid and transferred" entered or by paid by sale of land described within, any general law of the state to the contrary notwithstanding.

It is hereby made the duty of the common council at its first meeting after the passage of this act to appoint two persons to serve on a board of commissioners (with two others to be appointed by the city of South Saint Paul) and said board of commissioners are hereby given full power and authority to arbitrate all questions concerning the financial interests of said city and the city of South Saint Paul; and a majority of said board of commissioners shall decide as to the portion of the indebtedness of the said city of South Saint Paul which shall be assumed by said city incorporated under this act, and said award shall be reported in writing within ten days from the date of their appointment to said city of South Saint Paul, and to the city

of West Saint Paul ; and said award shall be binding on the authorities of said cities of South Saint Paul and West Saint Paul. The corporate authorities of said city of West Saint Paul shall annually cause a tax levy to be placed upon the taxable property contained in said city sufficient to pay the interest on said award of said board of commissioners at the rate of six per cent. per annum ; and at the expiration of eighteen years from date of said award shall pay over to said city of South Saint Paul the principal sum of said award ; and the said city of South Saint Paul shall immediately pay over to the authorities of the said West Saint Paul such moneys as may be found by said board of commissioners to have been collected from and payable to said city of West Saint Paul for street or ward funds or any other purpose, and now in possession of said city of South Saint Paul ; *provided*, that in case the said board of four commissioners, appointed as aforesaid, cannot agree upon such award, proper and just to be made, they shall refer the question in dispute to the comptroller of the city of Saint Paul who shall serve on said board of commissioners ; and the decision of said board, or a majority thereof, shall be final and binding as hereinbefore provided.

SEC. 24. All laws of the state of Minnesota whether general or special conflicting with the provisions of this act in so far as they affect the city of West Saint Paul, are hereby repealed.

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

Approved February 20th, 1889.

CHAPTER 2.

[S. F. No. 450]

AN ACT INCORPORATING AND PRESCRIBING THE BOUNDARIES OF THE VILLAGE OF ADAMS, MOWER COUNTY, MINNESOTA, AND FOR MAKING IT A SEPARATE ELECTION DISTRICT.

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

SECTION 1. That the boundaries of the village of Adams, in the county of Mower and state of Minnesota, incorporated under the general statutes of this state, shall comprise the following territory and no more, to-wit :

All of section eleven (11) in township one hundred and one (101), range sixteen (16).

SEC. 2. That said village of Adams shall be and constitute one separate election district for all purposes, and is hereby declared to be separate and distinct in all respects and for all purposes from the town in which such village is situated. But nothing in this act shall be construed as prohibiting or preventing the electors of the township of Adams from holding their township, general or special elections in said village as heretofore, if so desired.