

## CHAPTER 32.

[S. F. No. 472.]

AN ACT TO AMEND SECTIONS EIGHT (8) AND TWELVE (12) OF CHAPTER SIX (6), AND SECTIONS ONE (1), TWO (2), SIXTEEN (16), EIGHTEEN (18), TWENTY-EIGHT (28), TWENTY-NINE (29), THIRTY (30), FIFTY (50), FIFTY-SEVEN (57) AND SEVENTY (70) OF CHAPTER SEVEN (7), TITLE ONE (1), AND ADDING THERETO A SECTION NUMBERED EIGHTY-ONE (81) AND AMENDING SECTION FOUR (4) OF CHAPTER SEVEN (7), TITLE TWO (2), OF AN ACT ENTITLED, "AN ACT TO REDUCE THE LAW INCORPORATING THE CITY OF SAINT PAUL, IN THE COUNTY OF RAMSEY AND STATE OF MINNESOTA. AND THE SEVERAL ACTS AMENDATORY THEREOF, AND CERTAIN OTHER ACTS RELATING TO SAID CITY INTO ONE (1) ACT, APPROVED MARCH FIFTH (5TH), ONE THOUSAND EIGHT HUNDRED AND SEVENTY FOUR (1874), AND THE SEVERAL ACTS AMENDATORY THEREOF," APPROVED MARCH FIRST (1ST), EIGHTEEN HUNDRED AND EIGHTY-SEVEN (1887).

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

SECTION 1. That sections eight (8) and twelve (12) of chapter six (6), and sections one (1), two (2), sixteen (16), eighteen (18), twenty-eight (28), twenty-nine (29), thirty (30), fifty (50), fifty-seven (57), and seventy (70) of chapter seven (7), title one (1), and adding thereto a section numbered eighty-one (81), and amending section four (4) of chapter seven (7), title two (2) of an act entitled "an act to reduce the law incorporating the city of Saint Paul, in the county of Ramsey and state of Minnesota, and the several acts amendatory thereof, and certain other acts relating to said city into one act, approved March the fifth (5th), one thousand eight hundred and seventy-four (1874), and the several acts amendatory thereof," approved March first (1st), eighteen hundred and eighty-seven (1887), be and the same are hereby amended and added to so as to read as follows:

## CHAPTER VI.

Section 8. They shall appoint a clerk of said board, whose term of office shall be at the pleasure of said board, and whose duty it shall be to keep the records and papers thereof; and he shall record their proceedings, and perform such other duties as may be assigned to him by said board. Before entering upon the discharge of his duties he shall take and subscribe an oath that he will faithfully execute his duties to the best of his ability; he shall also execute a bond to the city of Saint Paul, with sureties, in such sum and upon such conditions as may be approved by said board, which bond shall be filed with the city clerk. He shall receive such a salary as the board of public works shall determine, and as shall be approved by the common council.

Section. 12. The engineer of said board shall be charged with the

erection, control and supervision of all sidewalks, streets, lanes, bridges, alleys and public levees, and it is hereby made his duty at all times to have and keep all the sidewalks, streets, lanes, bridges, alleys and public levees, in a cleanly condition, passable and safe for public use and travel; and to enable said engineer to satisfactorily discharge the duties created by this section, he is authorized to appoint six (6) persons, who, under his direction shall perform such duties as said engineer shall prescribe, and the persons so appointed shall receive such compensation as the board of public works, with the consent of the common council may determine.

## CHAPTER VII.

### TITLE 1.

Section 1. The municipal corporation of the city of Saint Paul is hereby authorized and empowered to condemn land for public parks, public markets, for the opening, widening and extending, altering and straightening of any street, levee, lane, alley or highway, and to condemn an easement in land across, over or under the property of corporations, for streets, bridges, approaches, culverts and ditches, and to condemn an easement in land for the construction of slopes, or retaining walls for cuts and fills upon real property abutting on any street, levee, lane, alley or highway now ordered or to be, or such as shall hereafter be ordered to be opened, extended, altered, straightened or graded, and for changes of grade in any street, levee, lane, alley or highway, and to abate nuisances, and to drain swamps, marshes and ponds, and to fill the same in said city, and to levy assessments for all the improvements mentioned above, and for such other local improvements as may be ordered by said municipal corporation upon property fronting upon such improvement or upon the property to be benefited by such improvements, without regard to cash valuation. The provisions of this section shall apply to any and all improvements heretofore ordered, as well as to those that shall be hereafter ordered.

Section 2. Such assessments may be made by said city of Saint Paul for grading, filling, leveling, paving, curbing, walling, bridging, graveling, macadamizing, planking, opening, extending, widening, contracting, altering and straightening any streets, levee, lane, alley or highway, and for a change of grade in any of the same, and also for the condemnation of land for public parks, public markets, and for an easement in land across, over or under the property of corporations for streets, bridges, approaches, culverts, and ditches and for an easement in land for the construction of slopes and retaining walls for cuts and fills in any street, levee, lane, alley or highway, which has heretofore been, or shall hereafter be ordered to be opened, extended, widened, altered or straightened, and for a change of grade in any of the same, and also 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, also to abate nuisances, and to drain swamps, marshes and ponds, and to fill the same, also for

constructing, laying and repairing cross-walks and sidewalks, retaining walls, area walls, gutters, sewers and private drains, and enlarging all of the same, also street sprinkling, and also for the abatement of any and all public nuisances within the limits of said city.

Section 16. Any person whose property has been appropriated and who has filed objections to such assessment as hereinbefore provided, shall have the right to appeal to the district court of the county of Ramsey of this state, at the next special term of said court, after the filing with the clerk thereof the notice of appeal provided for in this section. Said appeal shall be made by filing a written notice of appeal with the corporation attorney, and with the clerk of the board of public works within ten (10) days after the publication of the notices provided for in the next preceding section specifying the name of the court to 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 also by filing with the clerk of said court within ten (10) days thereafter a copy of said notice of appeal and a copy of the assessment roll as confirmed aforesaid, and a copy of the objections aforesaid to the confirmation of the assessment, all certified by the clerk of said board and at the expense of the appellant, together with a bond to the city of Saint Paul conditioned to pay all costs which may be awarded against the appellant in such sum and with such security 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, and the cause shall be docketed by the clerk of such court in the name of the person taking such appeal against the city of Saint Paul as an "appeal from assessment." 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 pleadings shall be necessary, and on such trial the only question to be passed upon shall be, whether the said board of public works 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 appropriated, 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.

Section 18. As soon as the money is collected and ready in the hands of the treasurer to be paid over to parties entitled to damages for property condemned, ten (10) days notice thereof by two (2) publications shall be given by the city treasurer in the official papers of the city, and the city may then, and not before, except as hereafter provided, 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 pay over to such owners, and said 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 con-

demned. *Provided*, however, that the city shall not be hindered, delayed or prevented by the prosecution of an appeal by any person as hereinbefore provided for in section sixteen (16) of this title from entering and appropriating such property to the use for which the same is condemned, if the city shall, after such an appeal has been taken, by its mayor execute and file with the clerk of the district court of Ramsey county, a bond to be approved by said court, payable to the appellant, conditioned that the city shall, in case the assessment against the property appealed from, be annulled and set aside by said court, pay whatever sum shall finally be awarded by the board of public works as damages for such property so condemned and appropriated, less such sum as shall be assessed thereon as benefits. *Provided further*, that the city shall not be hindered, delayed or prevented, by the collection of any assessment or for any other cause, after said assessment shall have been confirmed by the board of public works, as provided for in this chapter, from entering upon and appropriating such property to the use for which the same was condemned, if the city shall by its mayor execute and file with the clerk of the district court of Ramsey county a bond approved by said court, payable to the parties from whom the property has been condemned and taken, conditioned, that the city shall, in case the assessment against the property so condemned and taken be annulled and set aside by said court, pay whatever sum shall finally be awarded by the board of public works as damages for such property so condemned and appropriated, less such sums as shall be assessed thereon as benefits. The provisions of this and the preceding sections shall apply as well to all proceedings for condemnation now pending, in whatever stage such proceedings may now be, as to those hereafter to be initiated. The mayor of the city is hereby authorized and empowered to execute the bonds herein provided.

Section 28. All contracts shall be awarded to the lowest reliable and responsible bidder or bidders, who have complied with the above requisition, and who shall have guaranteed to the satisfaction of said board, the performance of said work to the satisfaction of said board, except in the case of paving streets with patent pavement or pavements, when in such case the notice for bids may call for wood, stone or other kind of pavement, and when all the proposals therefor are in, the board may select the one which is relatively the lowest or most satisfactory, all things considered, and the decision of the board therein shall be final. If the pavement selected is patented, the said board shall require a license from the patentee, to lay and re-lay the same for all time thereafter, free from all claims or royalty. Whereupon a contract shall be made on the part of said board, in the name of the city of Saint Paul, and shall be executed on the part of said city by the president of said board, or such other members as said board may designate, and the seal of said board shall be thereto attached, and the said contract shall be countersigned by the city comptroller. Said contract shall be filed in the office of the city comptroller. *Provided, however*, that the said board may reject any bid which they shall deem unreasonable or unreliable, and that said board in determining the reliability of a bid, shall consider the question of the responsibility of the bidder and his ability to perform his contract, without any

reference to the financial responsibility of the sureties on the bond. *Provided, further*, that no contract shall be awarded except upon or by vote of at least two-thirds ( $\frac{2}{3}$ ) of the members of said board in favor thereof. And *provided further*, that no contract shall be awarded except with the approval of the common council by two-thirds ( $\frac{2}{3}$ ) of the members thereof elect. *Provided further*, that if at the time of the allowance of any estimate whatsoever on any contract made by the said board of public works there shall not be any money in the treasury applicable to the payment of the amount due on said contract as allowed by such estimate, the city comptroller shall issue a certificate of indebtedness for the amount due on said contract, said certificate to be signed by the president of said board, attested by the clerk thereof and countersigned by the comptroller. Said certificate to be payable whenever there is money in the city treasury properly applicable to pay the same, with interest not exceeding seven (7) per cent. per annum, payable semi-annually at the office of the treasurer of the city of Saint Paul. The faith and credit of the city of Saint Paul are and shall be irrevocably pledged for the payment of the principal and interest of said certificates.

Section 29. The said board of public works shall reserve the right in their said contracts in case of improper construction to suspend the work at any time and re-let the same, or to order the entire re-construction of the same if improperly done. In cases where the contractor or contractors shall proceed to properly perform and complete the said contracts the said board of public works may, from time to time, (not oftener than once a month, except final estimates, which may be given and allowed at any time after the allowance of the preceding estimate), 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 board of public works, 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, *provided, however*, that in case of contracts for paving streets, the board of public works are authorized to retain such sum and upon such conditions and for such length of time as may be agreed upon, for the keeping of said pavements in repair.

Section 30. Two (2) or more of the notices required or authorized by this act to be given by the board of public works or the city clerk, by publication in the official paper of the city, in any special assessment proceedings, may be comprised in one (1) advertisement. *Provided, however*, 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 required to be given by or under this act or any act amendatory thereof or which may be or which are 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 purposes of this act. And *provided further*, that the time specified for the publication of any notice required to be published in the official paper of said city under the city charter, or any of the provisions of the amendments thereto, shall commence with the first publication.

Section 50. All deeds made to purchasers of lots and parcels of land sold for assessments, or the record thereof, shall in all cases, be prima facie evidence that all 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 the redemption has expired, and no sale shall be set aside, or held invalid, unless the party objecting to the same shall either prove that the court rendering the 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 the 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 heretofore or hereafter commenced in which the validity of a deed or certificate of sale issued under this act is brought into question, and on account of any irregularities, the same shall be set aside, the party holding such deed or certificate of sale, shall recover from the city of Saint Paul the amount paid by the purchaser at the sale, or by the assignee of the city on taking an assignment certificate, with interest at the rate of seven (7) per cent per annum from the date of such payment. Such amount shall be paid out of the city treasury upon the order of the common council of said city. Such proceedings shall not operate as a payment or cancellation of any assessment included in the judgment, but the same shall stand as originally assessed against the property, and with all accruing interest, penalties and costs. All deeds referred to in this chapter shall be admitted to record without payment of taxes, and without the county auditor's certificate that the taxes have been paid.

Section 57. On all cash sales and transfers of certificates for delinquent local improvements and on redemptions of the same, the city treasurer shall receive a commission of two (2) per cent. on the money actually received by him for the above purposes, and the city treasurer shall receive on all assessments collected before sale, one-half of one per cent.

Section 70. After judgment shall be ordered to be entered against any lot or real estate, for the non-payment of assessments, the same shall

not be opened or set aside except for mistakes made by the board of public works in making and confirming the assessment, or by the court in ordering judgment to be entered, or in entering the judgment after the same shall have been ordered, and in such case the judgment shall be opened only on application made by the city treasurer of the city of Saint Paul. Ten days' notice by one publication in the official paper of said city, describing the improvement for which the assessment is made, and the mistake for which it is desired such judgment shall be opened, and stating the time when such application will be heard shall be first given, and such notice shall be deemed sufficient notice to all persons interested in such application. If upon such application it shall be found that any mistake has been made materially affecting the rights of the parties, it shall be the duty of the court to open such judgment and order the mistake corrected so as to conform to the facts.

Section 81. In all cases where judgment for damages to real property is obtained in any court growing out of, or caused by, any local improvement made by the city of Saint Paul, it shall be the duty of the corporation attorney to report said judgment to the common council of said city, whereupon said council shall order the board of public works of said city to proceed to assess the property benefited by said local improvement, to the extent of the judgment aforesaid, together with the necessary costs and expenses. The said board shall give like notices and proceed in like manner as in the assessment for the improvement out of which said damages arose, and said assessment shall be enforced and collected in like manner as other assessments under this chapter. *Provided*, that nothing herein shall prevent the said city from appealing from said judgment.

## CHAPTER VII.

### TITLE II.

Section 4. Title 2. The board of public works shall have power to prescribe the condition upon which sewers may be tapped and to grant licenses therefor, and power to suspend or revoke the same. Said board shall also have power to prescribe the conditions upon which pavements and macadam surfacing may be taken up and replaced for sewers, gas and water connections, or for any other purpose whatever. Said board shall also have power to grant licenses to drain and sewer contractors and to any person or persons desiring to make an excavation of any kind in any of the streets, avenues, levees or alleys of the city, and to suspend or revoke the same. Said board shall prescribe the amount to be paid for such licenses (the amount of the bond required to be given shall be as hereinafter provided) and shall also prescribe such regulations for excavating streets, avenues, levees or alleys, for tapping and making connection with sewer, gas, water or steam pipes, electric conduits and all underground conduits or pipes for which franchises have been or shall be granted, and for the protection and maintenance thereof, and also for the granting of licenses to drain and sewer contractors or other per-

sons, and shall impose such penalties, as a punishment, for any infraction thereof as they, the said board, may deem necessary and proper. No person or corporation shall be permitted to tap or make connections with any sewer, water, gas or steam pipes, or electric conduits, or make any excavations whatever in the public streets, avenues, levees or alleys of said city, without having first obtained from the board of public works a license therefor. An application for any license provided for in this section shall be in writing, signed by the applicant and addressed to the board of public works. Such application shall be accompanied by a bond in the sum of five thousand (5,000) dollars, running to the city of Saint Paul, executed by the applicant as principal and two (2) responsible and satisfactory sureties, conditioned that such excavation and tapping or connecting with sewers shall be made in accordance with the regulations prescribed by the board of public works for street excavations and sewer connections, and also further conditioned to save the city harmless from all damages, loss, cost and expense to which said city may be subjected by reason of such excavations or sewer connections. Said bond shall be approved by the corporation attorney and the president of the board of public works and filed with the city engineer. No person or corporation whether licensed or otherwise, shall make any excavations whatsoever in any of the public streets, avenues, levees or alleys of said city without having first obtained from the engineer of the board of public works a permit therefor. *Provided, however,* that in the event of any unforeseen accident to the Saint Paul water works it will not be necessary to first procure a permit to make any repairs necessary.

Any violations of the provisions of this section by any person or persons or corporation shall be deemed a misdemeanor and any person or corporation convicted thereof upon complaint therefor shall be punished by a fine of not less than fifty (50) dollars nor more than one hundred (100) dollars.

All acts and parts of acts contravening the provisions of this act save any act or acts relating to the powers and duties of the park commissioners of the city of Saint Paul, are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved April 17, 1889.