

CHAPTER 431.

[H. F. No. 946.]

AN ACT TO OPEN, WIDEN, STRAIGHTEN AND EXTEND THE STREET KNOWN AS ANNAPOLIS STREET EXTENDING BETWEEN SECTION NINE (9) AND SIXTEEN (16), EIGHT (8) AND SEVENTEEN (17) AND SEVEN (7) AND EIGHTEEN (18), TOWNSHIP TWENTY-EIGHT (28), RANGE TWENTY-FIVE (25) WEST, AND BETWEEN SECTIONS TWELVE (12) AND THIRTEEN (13), TOWNSHIP TWENTY-EIGHT (28) RANGE TWENTY-THREE (23) WEST, FROM THE MISSISSIPPI RIVER ON THE EAST TO THE WEST LINE OF BLOCK EIGHTY-EIGHT (88), BANNING AND OLIVIER'S ADDITION TO WEST SAINT PAUL.

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

SECTION 1. There is hereby established, constituted and appointed a commission, whose duties shall be to proceed as soon as practicable to open, straighten, widen and extend a street to be called Annapolis street between section nine (9) and sixteen (16), eight (8) and seventeen (17), and seven (7) and eighteen (18), township twenty-eight (28), range twenty-five (25) west, and between section twelve (12) and thirteen (13), township twenty-eight (28), range twenty-three (23) west, in the counties of Ramsey and Dakota, from the Mississippi river on the east to the west line of block eighty-eight (88), Banning and Olivier's addition to west Saint Paul, and to establish the grade thereof and to grade the same, provided said Annapolis street shall be made of a general width of sixty (60) feet.

SEC. 2. Said commission shall consist of five (5) members, two of whom shall be citizens of the city of Saint Paul, one of whom shall be a citizen of the city of South Saint Paul and one of whom shall be a citizen of West Saint Paul and one of whom shall be a citizen of the township of Mendota. W. A. Somers and Wm. F. Bickel are hereby named and appointed to be the members of said commission from the city of Saint Paul. A. B. Clark is hereby named and appointed to be the member of said commission from the city of South Saint Paul, and James W. McGrath is hereby named and appointed to be the member of said commission from the city of West Saint Paul, and Charles F. Staples is hereby named and appointed to be the member of said commission from the township of Mendota. Said commission shall, before proceeding upon their duties as hereinafter provided, subscribe to an oath to fairly and impartially perform their duties under this act and file the same in the office of the clerk of the district court of Ramsey county, and said commissioners are hereby authorized to fill any vacancy that may occur in said board.

SEC. 3. Said commissioners shall meet and organize by the designation of one of their members as chairman and may appoint one person who shall act as clerk and secretary. A majority of said board shall constitute a quorum for the transaction of business. *Provided*, that no action of said commission condemning lands, purchas-

ing lands or making assessments therefor or for the grading of said street shall be valid unless voted for by at least four (4) members of said commission. And said board shall keep a record of all their proceedings. The said commissioners shall receive as full compensation for their services the sum of one hundred dollars (\$100) each to be paid out of the funds obtained by assessment, and in addition thereto may receive such sums for actual and necessary expense incurred in the performance of their official duties as may be audited and allowed by said commissioners. The city attorney of the city of Saint Paul shall be the attorney for said commission and shall perform the duties as such attorney without compensation. And the commissioners shall be authorized to employ and dismiss such surveyors, agents and employees as they may deem necessary who, together with such clerk shall receive such compensation as may be determined by said commissioners, which compensation shall be paid out of the moneys arising from the assessment for the opening, widening and extending and the grading of said street.

Said commissioners may acquire by gift, for the use of said Annapolis street and the public, any land or lands which it may be necessary to include in said Annapolis street.

SEC. 4. The said commissioners shall have the power to condemn all necessary land or lands needed for the opening, straightening, extending and widening of said Annapolis street between the points above mentioned and for the necessary slopes thereto and therefor, and shall have the power to establish and fix a grade for said Annapolis street and to grade the same, and it is hereby authorized to levy assessments upon the property to be benefited by said improvement without regard to cash valuation both for the opening, straightening, widening and extending and the grading said street and for slopes for the same as hereinafter provided.

SEC. 5. The said commissioners shall, as soon as practicable after the passage of this act, proceed to open, straighten, widen and extend the said street between the points above mentioned and to condemn the land necessary therefor, and for this purpose they shall proceed to ascertain and assess the damages and recompense due the owners of such land respectively, and at the same time to determine what real estate will be benefited by such improvement, and assess the damages together with the costs of the proceedings on the real estate by them deemed benefited, in proportion as nearly as may be, to the benefit resulting to each separate parcel. The said commissioners shall first procure a plat of survey of the contemplated improvement and file the same or a copy thereof in the office of the city engineer of the city of Saint Paul.

SEC. 6. The said commission shall then give fifteen (15) days notice in some newspaper of the city of Saint Paul, of the time and place of their meeting for the purpose of making said assessment, in which notice they shall specify what said assessment is for, and they shall describe the land to be condemned, as near as may be, by general description; said notice shall be published at least two (2) times, and said period of fifteen (15) 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 counsel for the commission shall also be admitted to appear before them at such hearing, to represent the interests of the public.

The said commissioners shall view the land 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 benefits conferred by the contemplated improvement; and the said commissioners 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. After viewing the premises and hearing the evidence offered, such commissioners shall prepare and make a true and impartial appraisal and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement, shall be benefited by such improvement, then the commissioners, in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner in respect to the remainder of the same property, and award him only the excess of the compensation or damages over and above such benefits. The said commission shall then assess the amount of such compensation and damages so awarded, together with the expense and cost of making the improvement, upon the land and property benefited by such improvement and in proportion to such benefit, deducting therefrom any damages or injuries to the same parcel which are less than such benefit, and assessing only the excess, and shall prepare their appraisal and award. Said commissioners shall also prepare assessment lists containing their assessment of such compensation, damages and cost or so much thereof as shall not exceed the actual benefits to the property so assessed; which lists shall contain a brief description of the tract or parcel of property assessed, the name or names of the owners thereof, if known, and the amount assessed, of the excess of such compensation, damages and costs aforesaid, which they shall return unassessed. One of said lists shall contain property situated in Ramsey county, Minnesota, and shall be filed after the assessment has been confirmed, with the county treasurer of Ramsey county, and one of said lists shall contain property situated in Dakota county, Minnesota, and shall be filed in like manner with the county treasurer of Dakota county.

SEC. 7. When completed the said commissioners shall cause to be given ten (10) days notice by two (2) publications in the paper where the first publications were made to the effect that said assessment has been completed, and that at a time and place therein specified the said commissioners will meet for the purpose of hearing objections, and that unless sufficient cause is shown to the contrary the same will 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 said commissioners. Should no quorum be present at the said appointed meeting of said board, the said meeting may be adjourned by the member or members of said board of com-

missioners present to such other convenient time and place as may be deemed expedient. Said assessment when confirmed shall be final and conclusive upon all parties interested therein and no appeal shall be allowed therefrom.

SEC. 8. When such assessment shall have been confirmed the same shall be a lawful and sufficient condemnation of the land or property ordered to be appropriated. The said commissioners, when said assessment has been confirmed as aforesaid, shall proceed at the same or any subsequent meeting to levy such assessment so confirmed and cause to be made and adopted two (2) assessment rolls, one containing assessments levied on real estate in Ramsey county and the other containing assessments levied on real estate situated in Dakota county which may be in the following form or in any other form the commissioners may adopt:

"The commissioners appointed by the legislature of the state of Minnesota to open, straighten, widen and extend Annapolis street doth hereby assess and levy upon and against the several parcels of land below described, the respective sums of money set against each lot or parcel. This assessment is made to defray the compensation and damages awarded for the taking of and injury to private property, and estimated cost of improvement, in and about the opening, widening, straightening and extending of Annapolis street from the Mississippi river on the east to the west line of block eighty-eight (88), Banning & Olivier's addition to West Saint Paul, as shown on the plat and survey of the same on file in the office of the city engineer of the city of Saint Paul. This levy is made in proportion to benefits from such improvement to accrue to the parcels and not exceeding the benefits to the parcels so assessed.

Name of Owner, if known.	Description of Land.	Lot.	Block.

Assessment.

Dollars. Cents.

Done at a meeting of the commissioners this....day of.....
 A. D., 188..

.....

Commissioners.

SEC. 9. The assessment roll containing the assessment levied on property in Ramsey county, shall thereupon be filed in the office of the county treasurer of Ramsey county, and the other assessment roll containing assessments levied on property in Dakota county, shall be filed in the office of the county treasurer of Dakota county.

Said assessment rolls having been filed as aforesaid, the county treasurers of said counties respectively shall, on or before the day of following deliver to the county auditors of said counties respectively the said assessment rolls, and the said county auditors shall extend the assessments in proper columns against the property assessed, and such assessment shall be collected and the payment thereof enforced with and in the like manner as state, county and other taxes are collected and the payment thereof enforced, and such assessment, when collected, shall be paid over by the respective county treasurers to the persons who are entitled thereto either for property condemned or the contractors for the grading, as the case may be, *provided*, that in the latter case no funds shall be paid out except upon an order signed by at least three (3) of said commissioners.

SEC. 10. After any assessment roll authorized in this act shall have been filed by the county treasurer of Ramsey or Dakota county, and before the same shall be delivered to the county auditor for collection, any assessment thereon may be paid direct to the county treasurer of the county where said assessment roll is on file, and the county treasurer shall receipt for the same and shall enter upon such assessment roll opposite the assessment so paid the words, "Paid to county treasurer," which entry shall cancel the assessment so paid.

SEC. 11. The county treasurer of the county of Ramsey, and the county treasurer of the county of Dakota shall cause to be paid to the owner of such property as lies within the boundaries of the respective counties, or his agent, the amount of damages awarded therefor as shown by the list on file in his office, referred to in section six (6) of this act, as soon as a sufficient amount of the assessment shall have been collected for that purpose. But the claimant shall in all cases furnish an abstract of title showing himself entitled to such damages before the same shall be paid. If, in any case, there shall be any doubt as to who is entitled to the damages for the land taken, the said county treasurer may require of the claimant a bond with good and sufficient sureties to hold the respective counties harmless from all loss, costs and expenses in case any other person should claim such damages.

SEC. 12. Any proceedings taken by the said commissioners in carrying out the provisions of this act, may be recorded in a book or books kept for that purpose. The said books in which said proceedings have been entered aforesaid, and the official files and papers of the commissioners shall be deemed public records and be prima facie evidence of the facts therein stated, and shall, for the purpose of safety, be filed in the office of the clerk of the district court of Ramsey county.

SEC. 13. The said commission may, in the same manner as heretofore provided for, proceed to condemn such land as may be necessary for slopes for said Annapolis street and proceed in the same

manner, to award compensation to lands injured thereby, and assess such lands as are benefited thereby and assess benefits to lands benefited thereby, and damages therefor shall be paid in the same manner as hereinbefore provided for and all proceedings conducted in the same manner so far as applicable.

SEC. 14. When said assessment of damages is completed and confirmed and the land for the opening, straightening, widening and extending of Annapolis street and the land necessary for the slopes for the same is duly condemned under and pursuant to the provisions of this act, the said commission shall then, as soon as practicable, proceed to establish a grade for said street under the direction of the city engineer of the city of Saint Paul, who is hereby empowered and required to establish said grade and to cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Ramsey county and one in the office of the register of deeds of Dakota county.

SEC. 15. The said commissioners shall then, as soon as practicable, cause an estimate to be made of the expense of grading said Annapolis street between the points above mentioned, which said estimate shall be made under the direction and supervision of the city engineer of the city of Saint Paul, and shall proceed to levy an assessment upon the property fronting on said street.

SEC. 16. Before proceeding to make an assessment for said grading, said commissioners shall give six (6) days' notice by publication in some newspaper of the city of Saint Paul, published at the city of Saint Paul, 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 for, and the amount to be assessed. Said notice shall be published at least two (2) times, and said period of six (6) days shall commence from the first publication. All persons interested in said assessment shall have the right to appear and be heard either in person or by counsel, and the said commissioners may, in their discretion, receive any legal evidence, and may adjourn, if necessary, from time to time and from place to place.

SEC. 17. When the said commissioners shall have completed the assessment for said grading, they shall cause like notice to be given of the time and place when said commission shall meet to hear objections, and for the confirmation of such assessment as hereinbefore required in relation to the assessment for the condemnation of real estate for said street, and objections shall be made in like manner and under the same regulations and condition, and all parties in interest shall have the like right, and the said commissioners shall perform like duties, and have like power in relation to said assessment as are herein given in relation to the assessment for the condemnation of said real estate. When confirmed by said commissioners, said assessment shall be final and conclusive upon all parties interested therein and shall be levied and collected as is hereinbefore provided in the condemnation proceedings, and no appeal shall lie from the order of confirmation, and if any assessment be annulled or set aside, either for the grading or the condemnation of land, as in this act provided for, then, in either case, the said commission shall proceed de novo to make another or new assessment in like manner, and give like notice as in this act required in relation to the first proceedings.

SEC. 18. Whenever one-half ($\frac{1}{2}$) of the assessment for said grading has been collected and paid in, as herein provided, the said commissioners shall cause proposals for doing said work to be advertised in some newspaper of the city of Saint Paul, published at the city of Saint Paul, having first procured a plan or profile of the work to be done, accompanied with specifications for doing the same, which they shall keep open for inspection; which advertisement shall be published at least two (2) times in said paper, and shall state, substantially, the work to be done.

The bids for said grading shall be sealed bids directed to the chairman of said commission. Said bids shall be opened by said commission at their next meeting after the times limited for such proposals, or such other time thereafter as said board may appoint. The contract for the grading of said street shall be awarded to the lowest reliable and responsible bidder or bidders, who shall guarantee to the satisfaction of said commission the performance of said work to the satisfaction of said commission. Whereupon a contract shall be made on the part of and in the name of said commissioners and shall be executed by a majority of said commissioners, *provided*, said commissioners may reject any bid which they shall deem unreasonable or unreliable. Said commission shall reserve the right in the said contract in case of improper work or grading to suspend the work at any time and relet the same or to order the entire reconstruction of said work if improperly done. The said commissioners may allow the contractor or contractors on said grading an estimate, from time to time, as the work progresses, but shall reserve fifteen (15) per cent. of the contract price until the whole work is completed to the satisfaction of said commissioners when the amount owing said contractor or contractors shall be audited and paid.

SEC. 19. Should any of the assessments made and levied, as provided for in this act be insufficient to pay for the improvement for which they were levied, then, in any such case, another assessment may be made and levied in the same manner hereinbefore provided for to raise such amounts of money as may be necessary to meet such deficiency.

SEC. 20. No error, omission, informality or irregularity in or preliminary to the making of any of the assessments or in any proceedings herein authorized and provided for, shall invalidate the same, providing that the proper notices are given as required herein to give said commission jurisdiction to proceed. And the assessment roll shall be completed and sufficient evidence that the assessment was duly made, confirmed and levied and that all other proceedings antecedent thereto were duly had, taken and performed as required by this act and no failure of the county treasurer to deliver the same to the county auditor on or before the time prescribed for such delivery shall in any way invalidate any assessment, and no variance from any of the directions herein contained as to the form or manner of any of the proceedings shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

SEC. 21. This act shall take effect and be in force from and after its passage.

Approved April 23, 1889.