

## CHAPTER 35.

[H. F. No 645.]

AN ACT TO CONSOLIDATE AND AMEND ALL ACTS RELATING TO PARKS AND PARKWAYS OF THE CITY OF ST. PAUL AND THE ORGANIZATION, POWERS AND DUTIES OF THE BOARD OF PARK COMMISSIONERS OF SAID CITY.

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

SECTION 1. There is hereby confirmed and established a board of park commissioners, in and for the city of St. Paul, Ramsey county, Minnesota, which shall hereafter consist of four (4) members, to be appointed as hereinafter provided, all of whom shall continue in office until the expiration of their several terms, and until their successors are appointed and qualified, as by law provided.

SEC. 2. The members of said board shall be residents and freeholders of said city, and shall be appointed by the mayor of said city of St. Paul.

Two (2) of said members shall be appointed for the term of one (1) year, and two (2) for the term of two (2) years, from and after March first (1st), one thousand eight hundred and ninety-one (1891), and thereafter the terms of office of their several successors shall be two (2) years. The mayor shall, as soon as practicable after the passage of this act, appoint members of said board for the terms aforesaid, and shall thereafter, on or before the first (1st) day of March, of each year, make appointments to fill the vacancies in said board, occurring on said first (1st) of March. Vacancies in the said board, if they should occur at other times, shall be forthwith filled in the same manner for the unexpired term or terms; but the resignation of a member shall not take effect until his successor has been appointed and has qualified. Upon the appointment and qualification of members of the said board, appointed under the provisions of this section, the terms of office of the present members of said board shall forthwith cease and terminate.

SEC. 3. Each person appointed as a member of the board of park commissioners shall, before entering upon the discharge of his duties, file a written acceptance and oath of office in the office of the city clerk of said city.

The said board of park commissioners shall elect, at its first (1st) regular meeting after the first (1st) of March, in each year, from the members of the said board, a president and a vice president.

It shall also appoint such agents and employes as it shall deem necessary, whose compensation shall be fixed by the board of park commissioners, with the approval of the common council, and shall be paid out of the park fund.

SEC. 4. The city clerk shall be *ex-officio* secretary of said board and shall receive from said park fund such compensation therefor as shall be allowed by the board of park commissioners, with the approval of the common council, which shall not exceed the sum of one hundred (100) dollars in any one year, and is authorized and empowered to

administer oaths in all proceedings under this act and incident thereto. He shall keep an accurate record of all the proceedings of said board.

SEC. 5. Said board shall have a common seal, and shall be capable of entering into, performing and enforcing contracts on behalf of the city of St. Paul provided for by this act, which said instruments shall be executed by the president or vice president and secretary of the said board and sealed with its seal.

SEC. 6. The secretary shall submit to the said board at its first (1st) regular meeting in each year a detailed report of the transactions of the board for the year preceding, and such other information as may be necessary for the conduct of its business or required by the board.

SEC. 7. Said board may adopt rules governing its meetings and proceedings and the duties of its officers and employes.

SEC. 8. A majority of the members of said board shall constitute a quorum; but a less number may adjourn a meeting from time to time.

The affirmative vote of three-fourths ( $\frac{3}{4}$ ) of all the members of the board shall be necessary for the designating or acquiring of lands, which vote shall be taken by ayes and noes and entered in full in the records of the board.

SEC. 9. Said board shall publish an annual report of its general proceedings, containing a statement of its receipts and expenditures, which statement shall be submitted to the city comptroller and audited by him.

SEC. 10. Said commissioners shall receive no compensation for their services, but may receive such sums for actual and necessary expenses, incurred in performing their official duties, as may be allowed by said board.

SEC. 11. No commissioner shall be interested in any contract made under the authority of said board, or in any lands to be acquired by said board, except that, if any commissioner shall be the owner of or interested in any lands which may be designated or appropriated under the provisions of this act, he shall be entitled to receive compensation therefor as provided herein, but shall not act officially in respect to any matter in which he may be pecuniarily interested.

SEC. 12. The office of any commissioner under this act, who shall not attend the meetings of the board for two (2) consecutive meetings, without reason satisfactory to the board, or without leave of absence from it, may, by said board, be declared, and thereupon shall become, vacant.

SEC. 13. Said board shall have the management and control of all existing and future acquired parks and parkways of said city, and may from time to time designate and acquire lands for park purposes, within the corporate limits of said city, as hereinafter provided.

SEC. 14. Lands may be so acquired in the name of said city by gift, devise, purchase or condemnation, as hereinafter provided, and upon obtaining title thereto, said board may assume possession and control thereof.

Said board may also accept and receive donations of money, and property for the use of said city for park purposes.

SEC. 15. When the board of park commissioners shall deem it to be for the public interest that any tract or tracts, parcel or parcels of land

shall be condemned for the use of said city for any public park, or parks or parkways, within the limits of said city, and shall so determine by resolution of said board, it shall make an order directing the city engineer to make a survey thereof, a copy of which order, together with a general description of said lands, shall be certified to by the secretary of said board, and by him transmitted to the city engineer, who shall forthwith cause a survey, and two (2) plats thereof to be made and transmitted to said board.

SEC. 16. Said board of park commissioners may contract in the name of said city of St. Paul for the purchase of the lands, or any part of the lands, designated by it for park purposes, to be paid for in the same manner as other lands so designated, the damages or compensation for which are appraised by the board of public works of said city of St. Paul, as hereinafter provided, and the purchase price for the same shall be paid out of the moneys applicable to the purchase of said lands for park purposes when all of it shall have been collected. Said purchase price shall bear interest after the final completion of the assessment hereinafter authorized, at such rate, not to exceed seven (7) per cent per annum, as may be agreed upon in said contract; *Provided, however*, such contract shall be executed and recorded before the said board of public works shall have been directed to appraise the damages and assess the benefits as hereinafter described. The sum so agreed upon as the purchase price of said lands shall be taken as the measure of compensation to be appraised by the said board of public works therefor, and shall be reckoned as damages by said board in ascertaining the cost of the property taken in said proceeding, on which it shall base the assessment of benefits to be made. If the proceedings for acquiring said lands so designated shall be abandoned, said contract shall thereupon become void, and in such case the said board of park commissioners shall execute and deliver a release of said contract to the owner of said land, which may be recorded.

SEC. 17. Said board of park commissioners shall have power, and it is hereby authorized, in connection with the said board of public works of the city of St. Paul, and on behalf of the city of St. Paul, to condemn for the use of said city any tract, tracts, parcel or parcels of land or any interest therein which may have been designated as hereinbefore authorized by this act, or which may be included in or form a part of any lands so designated, and when such condemnation shall have been completed and the lands paid for as herein provided, the title to such lands shall pass and be vested in the city of St. Paul. When the said board of park commissioners shall deem it to be for the public interest that any tract or tracts, parcel or parcels of land, or interest therein aforesaid, shall be condemned for the use of said city for any public park or parks or parkways aforesaid within the limits of said city and shall so determine by a resolution of said board, it shall cause the same to be surveyed and platted as hereinbefore provided. It shall also determine by resolution what sum, if any, not to exceed forty (40) per cent of the damages and expenses caused by said condemnation, shall be paid towards the same out of the park fund, as the same then exists, and it shall at the same time by resolution appropriate and set apart such amount from the moneys then in the park fund, the same to be held and applied as herein provided towards the payment of

any damages or compensation that may be awarded in such condemnation proceedings, including the expense of such proceedings; and, except as hereinafter otherwise provided, said moneys so set apart shall remain in the city treasury and be applicable to no other purpose whatsoever. The said board of park commissioners shall thereupon make an order directing the said board of public works to ascertain and determine the amount of the damages or compensation to be paid to the parties thereto by reason of such condemnation, and also to assess the amount of said damages and expenses, less the amount thereof, if any, so appropriated and set apart out of the park fund as aforesaid, on real property specially benefited thereby, in proportion to the benefits accruing to the same, not to exceed said benefits.

A copy of said resolutions and order, together with a copy of said plat, shall be certified by the secretary of the said board of park commissioners, and transmitted to the said board of public works for its action thereon. If any parcel or parcels of the land so designated has been purchased by said board of park commissioners in the manner hereinbefore described, a description of said property, with a statement of the purchase price thereof, shall also be transmitted to said board of public works, who shall take the purchase price agreed to be paid for said property as the amount of damages to be awarded therefor.

SEC. 18. Said board of public works shall forthwith, on receipt of such order, give twenty (20) days' notice by one (1) publication in the official newspaper of said city, of the time and place of its meeting for the purpose of making said assessment, which notice shall specify what such assessment is to be for and shall describe the land to be condemned as nearly as may be done by general description.

SEC. 19. All parties interested in said improvement shall have the right to be present and be heard, either in person or by counsel, and the corporation attorney of said city shall be permitted to attend such hearing, to represent the interests of said city.

SEC. 20. Said board of public works shall view the premises to be condemned, and receive any legal evidence that may be offered for the purpose of determining the true value of or the damages which will be caused or benefits conferred by reason of the contemplated improvement, and for this purpose any member of said board is authorized to administer oaths to any witnesses produced before the board, and said board is authorized to issue subpoenas under the seal of the board, to send for persons and papers and to compel the attendance of witnesses. Said board may adjourn from time to time and from place to place until such assessment is completed.

SEC. 21. Said board of public works in making said assessment shall determine or appraise to the owner or owners the value of the real estate appropriated for the improvement and the damages 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 due share of benefit which such owners may respectively derive from such improvement; and said sum so awarded as damages shall bear interest at the rate of seven (7) per cent per annum from and after the date of the completion of the assessment therefor, as hereinafter provided for, until paid.

SEC. 22. If the damages to any person be greater than the benefits assessed, or if the benefits be greater than the damages, in either case the said board of public works 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. 23. If there should be any buildings standing in whole or in part upon the land to be taken the said board of public works shall add to its estimate of damages for the land the damages also 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 appraised 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 board of public works. Such owner may at any time within ten (10) days after publication of notice that said assessment has been confirmed, notify the said board of public works, in writing, of his election to take such building or part of building at its appraisal, and the owner shall have such time for the removal of such building thereafter as the said board of public works shall allow. If the owner shall refuse to take the building at the appraisal, or fail to give notice of his election aforesaid, the board of park commissioners may, 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 ten (10) days' public notice of the sale by one (1) publication in the official newspaper of the city, and cause such building to be forthwith removed. The proceeds of such sale shall be paid into the city treasury to the credit of the park fund.

SEC. 24. If the land and building belong to different persons, or if the land be subject to lease, the damage done to such persons or interest respectively may be awarded to them.

SEC. 25. Having ascertained the aggregate damages for the land taken as aforesaid, the said board of public works shall add thereto a sufficient amount to provide for interest probable to accrue before the assessment can be collected, and shall thereupon apportion and assess the entire sum, less the amount appropriated and set apart out of the park fund, if any, together with the costs of the proceedings, upon the real estate by it deemed specially benefited from the appropriation of said land to public park uses, in proportion to the benefits resulting therefrom, as nearly as may be, and shall briefly describe the real estate upon which the assessment may be made. If the sum set apart from the park fund by the commissioners as above provided is less than forty (40) per cent of the total amount of damages, costs and expenses as determined and appraised by the said board of public works, together with the costs and expenses, all damages, costs and expenses over said sums so set apart shall nevertheless be raised by assessment in the manner hereinbefore provided, on the property benefited. If said sum so set apart from the park fund proves to be more than forty (40) per cent of the damages, costs and expenses aforesaid, sixty (60) per cent of the damages, costs and expenses shall be assessed on the property benefited, and the balance of said sum

in excess of said forty (40) per cent shall then be returned to the park fund for other uses. It shall be the duty of the said board of public works, whenever it finds the sum appropriated by the said board of park commissioners is in excess of forty (40) per cent of the total damages, costs and expenses, to notify said board of park commissioners of the amount of such excess within ten (10) days after the assessment is completed and confirmed. The said board of public works shall estimate as nearly as possible the cost of printing notices of the assessment up to the time the sum would become delinquent, the cost of engineering in making survey and plats of said improvement, and the treasurer's fees for collecting said assessment, all of which shall be chargeable in said assessment as costs and expenses.

SEC. 26. When said assessment has been completed, said board of public works shall forthwith cause to be given ten (10) days' notice, by one (1) publication in the official newspaper of the city, to the effect that such assessment has been completed, and that at a time and place therein specified the said board will meet for the purpose of hearing objections, and that all such objections must be filed in writing with the clerk of said board at least one (1) day prior to said meeting, and that unless sufficient cause is shown to the contrary the same will be confirmed; said notice shall specify the property assessed, and the amount of each assessment. All objections to said assessment shall be in writing and filed with the clerk of said board at least one (1) day prior to said meeting; *Provided, however*, that said board may, at 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 board aforesaid. 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 the board present, or if none of the members are present, by the clerk of said board, to such other convenient time and place as may be deemed expedient; *Provided further*, that nothing herein contained shall preclude said board from causing a new notice aforesaid to be given of a meeting of the said board for the purpose of hearing objections to said assessment, and for the confirmation thereof as before required, in case the previous notices shall be found imperfect, or in case of a defect in attendance of the members of said board, or for any other reason which shall be satisfactory to said board for so doing. The said board shall have the power to adjourn such hearing from time to time, and shall have power, in its discretion, to reverse [revise] and correct said assessment, and to confirm or set aside the said assessment, and proceed to make an assessment *de novo* without any further order from the said board of park commissioners, and upon like notices and in like manner as above provided. Said assessment shall be finally confirmed within four (4) months after receiving said order from the board of park commissioners directing the assessment, and when confirmed shall be entered in a book kept for that purpose, and shall be final and conclusive upon all parties interested therein, except as hereinafter provided. When said assessment is confirmed, a warrant, under the seal of the board of public works, shall be issued 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, clerk of said board, and the city comptroller. As soon as practicable after the said assessment has been confirmed and entered, the clerk of said

board shall cause a brief notice, by one (1) publication of the fact, of such confirmation and entry, to be published in the official newspaper of said city.

SEC. 27. Any person whose property has been appropriated, and who has filed objections to such assessment as hereinbefore provided, shall have the right, at any time within ten (10) days after the publication of said notice provided for in the next preceding section, to appeal to the district court of the county of Ramsey, of this state, from the order confirming said assessment. Said appeal shall be made by filing a written notice of appeal with the clerk of the board of public works, 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, within ten (10) days thereafter, a copy of such notice of appeal and objections and a copy of the assessment roll, as confirmed aforesaid, so far as it affects the property in controversy of appellant, all certified by the clerk of the said board of public works, who shall also certify on said notice of appeal and objections the date when the said notice was filed by appellant with the said board of public works. The cause shall be docketed by the clerk of the court in the name of the person taking such appeal against the city of St. Paul, as an "Appeal from assessments." The said cause shall then be at issue and 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 board of public works has 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 to confirm the assessment, if it shall have been found that the said board has jurisdiction, and that said valuation and assessment, in so far as the same shall affect the property of said appellant, are fair and impartial. If the court shall find that the board of public works has no jurisdiction in the matter appealed from, then, in such case, the judgment of the court shall be to annul said assessment. If the court shall find that the said board has jurisdiction, and shall also find that said valuation is unfair, and that the damages awarded by said board to said appellant are insufficient and inadequate for the property so appropriated, then, and in such case, the court shall determine and find the amount of damages which said appellant is entitled to receive, over and above the sum awarded by the board of public works, and shall order judgment against the city of St. Paul therefor, which judgment, with interest, shall be paid as other judgments against the city. The amount awarded said appellant by the board of public works, with interest, shall be paid in the same manner as the damages to those persons who have not appealed.

SEC. 28. When judgment has been rendered on all the appeals taken from said assessment, the said board of public works, without further order from the said board of park commissioners, shall, without unnecessary delay, proceed to make a new assessment, or re-assessment, on the property by it deemed benefited by such assessment, for the purpose of raising the difference between the amount

originally awarded by said board of public works to said appellant or appellants, and the amount which the court has adjudged said appellant or appellants is entitled to receive, together with the cost of said new assessment or reassessment, and said board of public works shall proceed in making said new assessment, or reassessment, in the same manner and shall have and take like proceedings as are provided for in the original assessment. If the board cannot find the property benefited by said improvement or appropriation of land to park purposes to the extent of said additional sum, besides the benefits heretofore assessed, it shall make the assessment to the extent of said benefits. If it is of the opinion that the first assessment was equal to the benefits derived from said improvement, it shall so report to the said board of park commissioners. In making said new assessment, or reassessment, in cases where portions of lots were condemned by the first assessment, and the remaining portion assessed benefits, such untaken portions shall also bear their proportion of assessment for benefits on the new assessment, or reassessment, notwithstanding the owner of such lots may have appealed from the assessment of damages. The proceeds of such new assessment, or reassessment, if any, shall be paid into the park fund, and the same shall thereafter be transferred to the general fund of said city, to reimburse said city for the judgments for increased damages aforesaid rendered against the city, as provided in the preceding section. If the new assessment, or reassessment, proves insufficient, the remainder shall be paid into the general fund of the city from the first unappropriated moneys coming into the park fund, if any.

SEC. 29. When such assessment shall have been confirmed, and no appeal shall have been taken therefrom, or if an appeal shall have been taken, when judgment shall have been rendered thereon, the same shall be a lawful and sufficient condemnation of the land or property ordered to be appropriated. There shall thereupon be paid to the owner of such property, or to his agent, the amount of damages which may have been awarded therefor, over and above all benefits assessed, as soon as a sufficient amount of the assessment shall have been collected for that purpose. 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 claimant a bond, with good and sufficient sureties, to hold the city harmless from all loss, costs and expenses, in case any person or persons should claim such damages. In all cases the title to the land taken and condemned in the manner aforesaid shall be vested absolutely in the city of St. Paul. It shall be the duty of the clerk of the said board of park commissioners to cause all deeds taken by the city for land acquired for park purposes to be recorded without delay, and the said clerk shall be the custodian thereof. In case no deed is given it shall be the duty of said clerk to cause the county auditor and city treasurer to be notified of the title so acquired by the city, giving to each of them a description of the land so acquired. And it shall be the duty of the register of deeds of the county of Ramsey to record all such deeds without requiring the certificate of the county auditor, county treasurer or city treasurer, that the taxes and assessments thereon have been paid.

SEC. 30. The city treasurer shall proceed to collect the benefits assessed against real estate under the provisions of this act, in the manner as in the case of assessments of benefits for other local im-



provements under the city charter; and the same proceedings shall be had for obtaining judgment to enforce delinquent assessments, and for the sale of property under such judgment, the issuance of certificates of sale therefor, and deeds to the purchaser in case no redemption is made, as provided by law, except that real estate sold under said judgments may be redeemed in ten (10) years from the date of the sale, and may also be redeemed in ten (10) annual installments, payable as follows: One tenth ( $\frac{1}{10}$ ) of the certificate at the end of each one (1) of the successive ten (10) years next ensuing the date of the certificate, together with the interest due on the whole amount thereof unpaid at the maturity of each of said installments, and the certificates of sale issued under this act shall conform to the provisions hereof as to time of payment and redemption. All other provisions of law relative to sale for assessments of local improvements, interest before and after such sale, and redemption therefrom, as they now exist or may hereafter be provided, under the city charter, shall be applicable to sales under this act.

SEC. 31. The said board of public works shall proceed *de novo* without further order from the said board of park commissioners, to make a new assessment, or reassessment, in case the first assessment shall be set aside by the district court, and shall have the same power to make reassessments in all cases, as in the case of assessments for other local improvements; but in making said reassessments it shall be guided by the provisions of this act as to notices and manner of procedure, and in the case of reappraisal of damages the property owners shall have the same rights of appeal as hereinbefore provided. In case the award of damages is increased on appeal from a reassessment, the said board of public works shall have the power, and it shall be its duty, to make a further reassessment for the difference of damages as in case of appeals from a first assessment.

SEC. 32. As soon as the assessments are collected and the proceeds thereof in the hands of the city treasurer, ten (10) days' notice thereof by two (2) publications shall be given by the said treasurer in the official newspaper 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 owners, and said ten (10) days' notice thereof shall have been given in the official newspaper of the city, the city may enter upon and appropriate such property to the use for which the same was condemned.

Interest on all damages payable shall cease thirty (30) days after such notice has been given, save where damages are increased by the district court, in which case interest on the increased amount shall run until money is in the treasury to pay the judgment therefor, and the holder thereof, or his agent, is notified thereof, or the money is paid into court. In case the amount allowed for interest and included in the benefits assessed by the said board of public works is insufficient to pay the interest accrued on damages awarded, the balance shall be paid out of the general fund of the city, and the general fund be reimbursed from the park fund when there are available funds therein.

SEC. 33. All proceedings taken by said board of public works in carrying out the provisions of this act shall be recorded in a book or books kept for that purpose by the clerk of said board, describing particularly the respective improvements and the real estate taken and assessed. The said books in which said proceedings have been entered as aforesaid, and the official files and papers of said board of public works, shall be deemed public records and be *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 the board attached, shall be evidence in all courts to the same effect as if the originals were produced. The clerk of said board shall be entitled to receive from any private party the like fees as are received for such services by the clerk of any court of record in this state.

SEC. 34. Said board of park commissioners, at any time during the pendency of any proceedings for the condemnation of lands as aforesaid, up to and until the time of the confirmation of the assessment by the said board of public works, shall have the right, by a three-fourths ( $\frac{3}{4}$ ) vote, to abandon all proceedings in respect to the whole improvement, whenever it shall deem it for the interest of the city so to do. In case of the abandonment of such proceedings, the secretary of said board of park commissioners shall certify such action of the said board to the board of public works, and thereupon said board of public works shall discontinue any further proceedings on its part in the matter.

SEC. 35. As soon as such condemnation proceedings shall have been completed and notice given that the money is in the city treasurer's hands ready to be paid for damages, an accurate description of the lands condemned, together with a statement of the amount of damages awarded and to be paid therefor, shall be certified by the president or vice president and secretary of the state board of park commissioners, under its official seal, and filed for record in the office of the register of deeds of said Ramsey county, which record of transfers of real estate in said county, which record shall be *prima facie* evidence of the title of said lands and the transfer of all the interests of the former owner or owners of the same to said city of St. Paul.

Said board of park commissioners shall also direct the city engineer to prepare correct plats of all such lands as may be acquired under the provisions of this act, one of which shall be filed in the office of said board of park commissioners and one in the office of said city engineer and another in the office of the register of deeds of said Ramsey county, to be kept on file and of record in the office of the said register of deeds in the same manner as plats of additions in the said city of St. Paul.

SEC. 36. All expenditures of said board of park commissioners, payment of which is not herein otherwise provided for, shall be paid from the park fund not otherwise appropriated, and all moneys received by said board from any source shall, where not herein otherwise directed, be paid into the city treasury to the credit of said fund.

Assessments collected shall be set apart and used only for the purposes for which they were levied. All assessments on property owned by the city shall be paid out of the general fund of the said city of St. Paul. Moneys of the park fund, when set apart for the purpose of paying damages awarded, shall be and remain in the city treasury

until the assessments for the same purpose are collected, by sale or otherwise, and shall then be applied with said assessments in payment of said damages.

SEC. 37. In case property sold for delinquent assessments is struck off to and purchased by the city of St. Paul, and the city shall be unable to sell and assign said certificates of sale within thirty (30) days thereafter, the city of St. Paul shall forthwith issue certificates of indebtedness to pay for the same, for the amount of said certificates of sale held by the city; said certificates of indebtedness shall be issued in the sum of one hundred (100) dollars each, or such other sum as the common council shall prescribe, and shall be payable on or before ten (10) years from their date, at the pleasure of the city, and shall bear interest at a rate not to exceed seven (7) per cent per annum, payable annually.

Said common council shall direct the manner in which these certificates shall be executed. The city shall redeem the said certificates of indebtedness before maturity as fast as money is realized on the certificates of sale held by the city, by redemption, sale of the same, or otherwise; *Provided*, that the liability and indebtedness of the city of St. Paul, direct and indirect, primary and secondary, for park purposes, exclusive of its existing liability on account of bonds issued and indebtedness already incurred for park purposes, shall never at one time exceed five hundred thousand (500,000) dollars, and whenever such indebtedness or liability shall reach that sum, all further proceedings for purchasing, securing by condemnation or otherwise, or improving in any manner public parks, shall cease and remain suspended until such liability and indebtedness is reduced below said sum, when further proceedings may be had as in this act provided, until such liability and indebtedness again reaches that amount, if in the opinion of the board of park commissioners the same is expedient and conducive to the public welfare.

SEC. 38. All expenditures under this act shall be audited by said board of park commissioners, and shall be paid by the city treasurer only upon warrants of said board, signed by its president or vice president and secretary, and countersigned by the city comptroller. All damages payable to property owners shall be paid from the funds provided therefor and on warrants of said board, signed as aforesaid and countersigned by the city comptroller. Whenever the said board of park commissioners appropriates a portion of the park fund for condemnation purposes, as hereinbefore provided, it shall transmit to the city comptroller and city treasurer a copy of the resolution so providing, whereupon said treasurer shall set apart and hold said sum to be applied, as herein provided. If the proceedings are abandoned, or said sum so set apart is ascertained to be in excess of forty (40) per cent of the entire costs of the improvement for which the same is appropriated, said board of park commissioners shall, upon such abandonment or the ascertainment of such excess, notify the said comptroller and treasurer thereof, and in the case of an abandonment of condemnation proceedings, all the moneys so set apart, and in the case of an excess, the portion thereof in excess of forty (40) per cent of the cost of the improvement, shall at once be returned to and become a part of the park fund, and applicable to other uses.

SEC. 39. Whenever the title shall have been acquired by said city, for park purposes, to land constituting the shores of any stream, lake

or pond, said board of park commissioners may regulate and control the use of such shore, and the water contiguous thereto, and in case such ownership shall embrace the entire shore of any such lake or pond, said board of park commissioners is vested with exclusive charge and control of the waters of said lake or pond, and may, in all things, regulate and govern the use of such waters; *Provided*, that said board shall not prohibit the use of sail or row boats on such waters.

SEC. 40. The lands which may be designated and obtained as aforesaid for park purposes shall not be alienated nor diverted to other uses, and shall remain forever parks and parkways for the use of all the inhabitants of said city.

SEC. 41. Said board of park commissioners may adopt rules to secure the quiet, orderly and suitable use and enjoyment of said parks and parkways by the people, and the common council shall provide ordinances to enforce them and to fix penalties for the violation thereof, which ordinances shall take effect from and after the publication thereof in the official newspaper of said city, and the same shall be enforced by prosecution by the corporation attorney in the municipal court of said city, as in the case of other ordinances of said city. The clerk of the municipal court of said city of St. Paul shall receive all fines and penalties imposed by the said municipal court for the violation of park ordinances, and shall, on the first (1st) Monday of every month deliver to the treasurer of said city all moneys so received, which shall be by him credited to said park fund.

SEC. 42. The mayor of said city shall, upon request of said board of park commissioners, appoint such policemen, as the common council may authorize; which policemen shall be under the control and direction of said board. All policemen so appointed shall possess all the common law and statutory power of constables; and any warrants for search or arrest, issued by any magistrate or court of record in Ramsey county, may be executed by such policemen in any part of said county.

SEC. 43. The common council of said city shall have the same power and jurisdiction in respect to laying water mains and sewers along the parkways in the said city as it now has in respect to laying the same along the public streets, and the same proceedings for levying and collecting special assessments for sewers along such streets shall apply to levying and collecting the same for sewers laid along the parkways.

SEC. 44. Said board of park commissioners may acquire by gift, without the corporate limits of said city, for parks or parkways, any land or lands, and shall possess the same powers and jurisdiction over said parks or parkways as if they were located within the city limits.

SEC. 45. This act shall be a public act, and need not be pleaded or proved in any case.

SEC. 46. All acts and parts of acts, whether in the charter of the city of St. Paul, or elsewhere, inconsistent with any of the provisions of this act are hereby repealed.

SEC. 47. This act shall take effect and be in force from and after its passage and approval.

Approved March 16, 1891.