

REVISED LAWS OF
MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
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1910

CHAPTER 9.

VILLAGES AND CITIES.

698. Villages and boroughs.

De facto village.—The state is precluded from attacking the franchise of a village which had been permitted to exercise the functions of a village de facto for 20 years and had been recognized as an existing village by legislative enactment. *State ex rel. Young v. Village of Harris*, 102 Minn. 340, 113 N. W. 587, 13 L. R. A. (N. S.) 533.

VILLAGES.

700. What territory may be incorporated.—Any district, section or parts of section not in any incorporated village and in the State of Minnesota, which has been platted into lots and blocks, also the lands adjacent thereto, when said plat has been duly and legally certified according to the laws of this state, and filed in the office of the register of deeds for the county in which said lands or the larger portion thereof lie, said territory containing a resident population of not more than three thousand nor less than two hundred, may become incorporated as a village in the manner hereinafter prescribed. But the unplatted part of such territory must adjoin the platted portion and be so conditioned as properly to be subjected to village government. Provided, that any village, whose incorporation shall hereafter be declared void by judgment of court, may reincorporate under this act, notwithstanding the fact that such village does not contain two hundred inhabitants, and in such reincorporation may include all or part of the territory embraced in the original incorporation. (R. L. § 700, as amended by Laws 1907, c. 270.)

Historical.—R. L. § 700, was amended, by striking out all of said section and substituting in lieu thereof the foregoing, by an act entitled "An act to amend section 700 of Revised Laws of Minnesota for the year 1905, relating to the incorporation of villages." Approved April 20, 1907.

See, also, Laws 1907, c. 255, referred to in note under section 701, whereby said section 700 was amended by substituting in lieu thereof a section identical with the foregoing, but without the proviso contained in said chapter 270.

Village.—A "village" means an assemblage of houses, less than a town or city, but nevertheless urban or semiurban in its character. *State ex rel. Young v. Village of Gilbert*, 120 N. W. 528.

Lands adjacent.—The term "lands adjacent thereto," in G. S. 1894, § 1200, includes only those lands lying so near to the platted portion as to be suburban in character, and to have some unity of interest with the platted portion in the maintenance of a village government. *State ex rel. Young v. Village of Gilbert*, 120 N. W. 528.

701. Census—Petition for election.—Twenty-five or more of the voters residing within said territory may petition the county board of the county in which the whole or larger part of said lands are situated to call an election for the determination of such proposed incorporation. They shall first cause to be taken a census of the resident population, and, if found to be within the numbers specified in section 700, the petition aforesaid shall be presented within eight weeks thereafter. It shall set forth the boundaries of such territory, the quantity of land embraced therein, the number of actual residents thereon, and the name of the village proposed. It shall be verified by the oaths of at least three of the petitioners, declaring that such census was accurately taken within the dates specified, and that the statements made in the petition are true. (R. L. § 701, as amended by Laws 1907, c. 255, § 2.)

Historical.—"An act to amend sections seven hundred, seven hundred and one and seven hundred and four of the Revised Laws of nineteen hundred and five, relating to the incorporation of villages." Approved April 19, 1907.

See note under section next preceding.

Cited in *State ex rel. Young v. Village of Gilbert*, 120 N. W. 528.

702. Notice of election.

Discretion of board.—The board is not vested with discretionary power to determine whether the unplatted portion of a village, proposed for incorporation, adjoins the platted part and is so conditioned as properly to be subject to village government. *State ex rel. Young v. Village of Gilbert*, 120 N. W. 528.

704. Papers filed—Incorporation, when effected.—The auditor shall attach said certificate to the original petition, with a copy of the resolution appointing said inspectors, and the original proofs of the posting and publication of the election notice, and file the whole, as one document, in his office. If the certificate show that the majority of the votes cast were in the affirmative, he shall forthwith make and transmit to the secretary of state a certified copy of said document to be there filed as a public record, and thereupon the incorporation shall be deemed complete. If territory in more than one county is embraced within such corporate limits, he shall also forthwith make and transmit to the auditor of each county in which said incorporated territory will be situate a certified copy of said document to be there filed as a public record, and thereupon the incorporation shall be deemed complete. If the vote be adverse, no subsequent petition shall be entertained within one year next after said election. (R. L. § 704, as amended by Laws 1907, c. 256, § 3.)

[706—]1. Villages in more than one county—Certificate for auditor.—Whenever any village heretofore or hereafter organized includes territory in more than one county the register of deeds of the county in which the original certificates showing the incorporation and the boundaries of such village are filed and recorded may, on demand, make a certificate showing the territory included in such village, which certificate may be filed in the office of the auditor of any other county in which any of the territory within such village is located, and such certificate shall be prima facie evidence of the facts therein stated for the purpose of levying village taxes or otherwise. ('05 c. 95 § 1)

Historical.—"An act relating to villages situated in more than one county." Approved March 31, 1905.
See R. L. § 5504.

[706—]2. Incorporation of certain villages legalized.—That in all cases where there have been an incorporation heretofore, to-wit, on and between the 14th day of December, 1904, and Feb. 6, 1905, attempted under the provisions of chapter 145 of the General Laws of one thousand eight hundred and eighty-five (1885), and the several acts amendatory thereof, and the original petition, copy of notice of election and certificate of the inspectors of the election have been heretofore filed in the office of the register of deeds of the proper county, such attempted incorporation of such village, under the name assumed, shall be, and hereby is legalized in each and every case, and declared a valid and effective incorporation, under the name assumed, and this shall be true notwithstanding the omissions of any matter and thing by law required as a prerequisite to the incorporation of such village, and notwithstanding any defect in the said petition, notice of election or certificate of the inspectors of election, and that in all cases where three inspectors of election have been duly appointed by the county commissioners, as provided in said chapter, and one of them dies before the election takes place and the remaining two have presided at the election and filed their certificate, as required by law, such election shall be, and is hereby declared to be, as legal and effectual to all intents and purposes as if the three had acted and presided. Any by-law, resolution or ordinance heretofore adopted by such village, or corporate act of any character indulged in, is hereby legalized and declared as valid as if such village had been duly and legally

incorporated in the original instance. But nothing herein shall affect any action or proceeding now pending. ('05 c. 12 § 1)

Historical.—"An act to legalize the incorporation of certain villages, attempted under chapter 145 of the General Laws of one thousand eight hundred and eighty-five, and of the several acts amendatory thereof, and also to legalize the acts of said villages." Approved February 21, 1905.

[706—]3. **Same.**—That all villages which may have heretofore been incorporated or have attempted to become incorporated under and by virtue of chapter seventy-three of the General Laws of A. D. eighteen hundred and eighty-three entitled "An act to provide for the incorporation of villages and to define their duties and powers, and to repeal certain laws in relation thereto," in which incorporation or attempted incorporation application shall have been duly made to the judge of the district court of the county in which such village is situate, as contemplated or required by the said act, and which village shall thereafter and heretofore have been declared or adjudged to be an incorporated village by any order or judgment of any of the district courts of this state, but which order or judgment shall have erroneously named the range of townships in which such village is situate, be and the same are hereby duly incorporated as villages, with, after substituting the true and correct range number for that so erroneously named, the territorial boundaries specified in the order or judgment of the district court declaring any such village to be an incorporated village under the provisions of the said act, and such incorporation is hereby legalized and made effectual to the same extent and for all purposes as though such order or judgment had correctly specified the range of townships in which such village is situate; and all such villages shall possess and are hereby endowed with all the franchises, rights, powers and privileges and subject to the duties in said act enumerated and contemplated; and all officers of any such village shall continue to occupy their respective offices and in like manner as if the said order or judgment had correctly named or set out the location or range of townships in which such village is situate, and the said act had been constitutional and valid, and as if the court declaring or judging any such village or villages incorporated had been legally empowered so to do; and all official acts of all persons heretofore acting as officers of any such village are hereby legalized and declared to be of the same force and validity as if such village or villages had been duly organized and incorporated from the date of the entry of the judgment or filing of the order of the district court purporting to incorporate any such village under said act. ('07 c. 119 § 1)

Historical.—"An act to incorporate and legalize the organization of certain villages." Approved April 8, 1907.

[706—]4. **Same.**—That all villages incorporated under and pursuant to the provisions of chapter 145 of the General Laws of Minnesota of 1885, and acts amendatory thereto, between October 1st, 1888, and December 31, 1888, and that have since continuously maintained and still maintain a village government, are hereby in all things legalized, validated and confirmed, and declared legally incorporated villages, without reference to whether any portion of the territory included in the corporate limits thereof is platted, or is urban or agricultural in character. Provided, however, that nothing in this act shall affect or apply to any action or proceeding now pending in any of the courts in this state. ('07 c. 215 § 1)

Historical.—"An act to validate and confirm certain village corporations." Approved April 15, 1907.

[706—]5. **Including territory not subject to village government**
—**Effect.**—Whenever any village shall hereafter be incorporated under the provisions of chapter nine of the Revised Laws of 1905,

and the amendments thereof, which village shall include within its limits the platted portion of lands theretofore attempted to be incorporated as a village under said chapter but which attempted incorporation is invalid because it included territory, not properly subject to the proposed village government, such village so to be incorporated shall be vested with all the rights, privileges, immunities, franchises, credits and property that said village so attempted to be incorporated would have had if its incorporation had been legal and valid, and shall be liable for all the debts and obligations that said village so attempted to be incorporated would have been liable for if its incorporation had been valid, and all franchises and licenses granted and contracts made by said village so attempted to be incorporated shall be of force and effect in said newly incorporated village from the time of the granting of such franchises and licenses and the making of such contracts respectively by said village so attempted to be incorporated; it being the intention hereof to make such village so to be incorporated the successor to such village so wrongfully attempted to be incorporated, with all the property, right and credits that would have accrued to said village so attempted to be incorporated, if legal, by reason of its acts or by the operation of law, and liable for all the obligations of said village so attempted to be incorporated. Provided, That nothing in this act shall be construed to validate or legalize any taxes levied or attempted to be levied other than assessments on property adjacent to local improvements levied for the purpose of paying the cost thereof and the damages occasioned thereby. ('09 c. 148 § 1)

Historical.—"An act relating to and prescribing certain rights, privileges, immunities, property and obligations of any village which shall be hereafter incorporated under chapter nine of the Revised Laws of 1905, and which shall include within its limits the platted portion of territory theretofore attempted to be incorporated as a village under said chapter, but which attempted incorporation is invalid for the reason that it included lands not properly subject to such village government." Approved, April 6, 1909.

[706—]6. **Incorporation of villages from territory of certain villages.**—That when there shall have been incorporated or attempted to be incorporated any village in this state, the boundary lines of which shall include not less than twenty-six square miles of land, and not less than twenty-five square miles thereof shall consist of unplatted farm lands and farm dwelling premises, pasture and timber lands, and a part of such territory, not exceeding three hundred acres, shall have been platted into village lots or blocks and one separate and distinct portion of said platted lands shall be inhabited as a village, having a railroad station and a United States post office therein, which platted lands so inhabited and the post office therein shall have a name common to them both, by which they are known and called, but not the name of the village incorporated or attempted to be incorporated as aforesaid, any such separate and distinct platted portion of said territory, together with lands adjoining the same so conditioned as properly to be subject to village government, not exceeding three hundred and twenty acres, may be incorporated as a village, separate and distinct from any other territory and from the village so incorporated or attempted to be incorporated, aforesaid. ('09 c. 9 § 1)

Historical.—"An act providing for the incorporation of villages from out of the territory of certain villages already incorporated or attempted to be incorporated in this state." Approved February 6, 1909.

[706—]7. **Same—Population—Application of other sections.**—The territory so to be incorporated shall contain not less than two hundred and fifty or more than two thousand inhabitants, and sections 701 to 745, inclusive, of the Revised Laws of Minnesota, 1905, shall apply to and in all things govern, authorize and control

the proceedings to so incorporate, form, create and separate said village and for the government and control thereof when so incorporated. ('09 c. 9 § 2)

[707—]1. Extending boundaries of certain villages.—Additional and adjacent territory, but not exceeding 320 acres, containing less than five legal voters, residing on such adjacent land, may be annexed to any village of less than one thousand (1,000) inhabitants on the concurrent petition of all such voters and of the owners of the land embraced in the territory. Upon the receipt of such petition, the village council by ordinance may declare such territory to be an addition to the village, and thereupon such territory shall become a part of said village as effectually as if it had been originally a part thereof. But no such ordinance shall take effect until a certified copy thereof is filed with the county auditor and the secretary of state. ('05 c. 281 § 1)

Historical.—“An act relating to the addition of territory to villages of less than one thousand inhabitants in certain cases.” Approved April 18, 1905.

Section 2 repeals inconsistent acts.
See R. L. § 5504.

[707—]2. Detachment of territory—Curative.—That whenever and in all cases between the first day of November, 1905, and the first day of April, 1906, a petition, signed by legal voters of any incorporated village in this state, has been made and filed with the board of county commissioners of the county in which is situated such village, or with the county auditor of such county, praying for the detaching of certain territory, described in such petition, from such village, pursuant to the provisions of chapter 145 of the General Laws of Minnesota for the year 1885, as amended by chapter 184 of the General Laws of Minnesota for the year 1893 and by chapter 132 of the General Laws of Minnesota for the year 1895, or pursuant to any other of the laws of Minnesota then in force, and thereafter such proceedings were had that an election was held in such village, pursuant to such laws, for the electors of such village to vote upon such proposition, and at which election the electors of such village did vote, upon such proposition, and a majority of the ballots cast at such election, as counted and canvassed, have been for detaching from such village the territory sought by such petition to be detached, and such proceedings for the detaching of said territory were not concluded or terminated prior to the first day of March, 1906, but were thereafter continued, prosecuted and concluded after the Revised Laws of Minnesota, 1905, went into effect, and prior to April 1st, 1906, all such proceedings for the detaching of such territory from such village, and the detachment of territory sought to be accomplished thereby, are hereby legalized, ratified and confirmed. And provided, further, that this act shall not affect any action now pending in any court of this state. ('07 c. 91 § 1)

Historical.—“An act to legalize and confirm the detachment of territory from incorporated villages in the state of Minnesota.” Approved April 3, 1907.

Laws 1905, c. 273, entitled “An act to provide for the separation from villages of unplotted agricultural lands, included within the corporate limits of such villages in certain cases,” held unconstitutional and void, in that it delegates, or attempts to delegate, legislative power and discretion to the district courts. *Brenke v. Borough of Belle Plaine*, 105 Minn. 84, 117 N. W. 157.

[707—]3. Detachment of territory.—Any territory occupied and used solely for agricultural purposes within the corporate limits of any village, may be taken out of such corporation and detached therefrom by petition of at least thirty (30) of the legal voters of such village, including the owner or a majority of the owners of the land proposed to be detached, to the village council of such village in the same manner as provided for the annexation of territory to incorporated villages, and it shall be the duty of the village council,

if they shall approve of such petition, to cause a copy thereof, with a notice attached, fixing a time and place within the corporate limits of such village for holding such election, to be posted in three public places within such village, the time of which election shall be not less than twenty nor more than thirty days after such posting, and if there be a qualified newspaper published within said village, there shall also be two weeks' published notice of such election. Said election shall be held in the same manner in all respects, as is provided for holding general village elections and the ballots used shall have thereon the words "for detaching" or "against detaching." Provided, that said question may be voted on at any general election held in such village. If a majority of the ballots cast shall be for detaching, then the said village council shall by ordinance detach the land or territory, so described in said petition, from the corporate limits of said village. But no such ordinance shall take effect until a certified copy thereof is filed with the secretary of state, and a certified copy thereof filed for record with the register of deeds of the county or counties within which said village is located. And said territory when so detached shall belong to and be a part of the township in which it is when so detached. Provided, that such territory shall not be detached as herein provided in any case when such detaching would reduce the number of inhabitants of such village below the number now required by law for the incorporation thereof. Provided, further, that the detaching of any territory from any incorporated village under the provisions of this act shall not relieve such territory of its share of its indebtedness existing against such corporation, but the said territory shall be deemed a part of such village for the purpose of taxation imposed to discharge the principal and interest of such pre-existing indebtedness until the same shall have been fully discharged. ('09 c. 460 § 1)

Historical.—"An act to provide for detaching territory included within the corporate limits of villages." Approved April 23, 1909.

By section 2 the act took effect August 1, 1909.

[707—]4. Detachment of territory from villages containing more than 1280 acres.—The owner of any unplatted tract of land containing not less than eighty acres occupied and used solely for agricultural purposes, situated within the corporate limits of any village in this state and not within 20 rods of the platted portion of said village, may petition the board of county commissioners of the county in which said tract of land is situated, for an order detaching said tract from said village. Upon the filing of said petition in the office of the county auditor of said county the board of county commissioners thereof shall, at their next meeting thereafter, fix a time and place for the hearing of such petition, which time shall not be less than thirty days thereafter, and shall direct a notice of such hearing to be issued and signed by the county auditor of said county on behalf of such board, which said notice shall state the name of such petitioner, describe the tract of land sought to be detached, and the time and place [of] such hearing, which said notice said petitioner shall cause to be served upon the president of the village council of such village, or the recorder thereof, at least twenty days before the day of hearing, and by posting three copies of such notice in three of the most public places in said village, or in lieu of such posting said notice shall be published in the official paper of such village for two successive weeks, once in each week, in case there shall be a legal newspaper printed and published in said village. Upon the hearing of said petition at the time and place so fixed, if the board of county commissioners shall find that said land is owned by the petitioner and is used solely for agricultural purposes and that the same may be so detached from said village without unreasonably affecting the symmetry of the settled portion thereof, and

that the same is so conditioned as not properly to be subjected to village government or is not necessary for the reasonable exercise of the police powers or other powers or functions of such village, such board of county commissioners shall make an order detaching such land from said village and thereupon said tract of land shall become detached therefrom, and shall thereafter form a part of the township in which it was originally situated, and shall in all things be subject to the town government of such township, and not in any manner under the jurisdiction of such village, and such order shall be filed in the office of the county auditor of such county and a duplicate thereof shall be filed in the office of the village recorder of such village within five days after the same shall have been made. Provided, that this act shall apply only to villages containing more than twelve hundred and eighty acres of land. ('09 c. 138 § 1)

Historical.—"An act to provide for the separation from villages or boroughs of unplatted agricultural lands, included within the corporate limits of such villages or boroughs in certain cases." Approved April 3, 1909.

[707—]5. **Same—Outstanding indebtedness.**—Such separation of said village shall not release any such tract of land from liability on account of any outstanding indebtedness of such village existing at the time of its separation therefrom. ('09 c. 138 § 2)

710. Apportionment of money and debt—Taxes.

Liability for town indebtedness.—A village organized pursuant to Laws 1885, c. 145, is not, before or after its separation from the town, liable to be taxed for indebtedness incurred on account of town roads and bridges, and, as so construed, the statute is constitutional. State ex rel. Warren v. Peltier, 103 Minn. 32, 114 N. W. 90.

711. Elections—Officers—Terms—Vacancies.

Assessors.—This section, so far as relates to the election and term of assessors, is superseded by Laws 1909, c. 316 (ante, § 668-2). See, also, three sections next following.

[711—]1. **Assessors in villages separated from towns.**—That all villages in this state that now are or which may hereafter become separated from the town or towns in which any such village is located, shall at the next annual village election elect an assessor, whose powers and duties shall be similar to those of township assessors. ('09 c. 61 § 1)

Historical.—"An act to provide for the election of an assessor in all villages, and designating a board of review, after such village has been separated from the town or towns in which such village is situated." Approved March 12, 1909.

[711—]2. **Same—Appointment after separation.**—The mayor or president of the village council of such village, after such separation from the township, shall, by and with the consent of the council or governing board thereof, appoint an assessor, who shall hold office until the next annual election. ('09 c. 61 § 2)

[711—]3. **Same—Board of review.**—The officers of such village, corresponding to the officers constituting a board of review in villages incorporated under the general law, shall constitute a board of review. ('09 c. 61 § 3)

717. Treasurer—Duties, bond, accounts, etc.

See section [717—]1.

[717—]1. **Same—To file statement—Publication.**—The treasurer shall, two weeks previous to the annual election of village officers, make a detailed statement in writing of the moneys received by him, and the sources from which the same were received, and their respective amounts; and also the amounts paid out by him, and the purposes for which they were paid. Such statement shall be filed by him in his office, for the inspection of any taxpayer residing within the corporate limits of said village, and he shall cause such statement to be published at least one week prior to such village

election in a newspaper published in such village, to be selected by the village council, if there be a newspaper published in said village, and if there be no such newspaper in said village, then he shall post copies of such statement in three of the most public places in said village. (G. S. 1894, § 1223, as amended by Laws 1905, c. 74, § 1.)

Historical.—"An act to amend section one thousand two hundred twenty-three of the General Statutes of the year eighteen hundred ninety-four, requiring village treasurers to make annual statements and publish or post the same." Approved March 24, 1905.

Section 2 repeals inconsistent acts.

G. S. 1894, § 1223, was Laws 1885, c. 145, § 20, which was repealed by R. L. § 5536; its provisions being incorporated in R. L. § 717. So far as Laws 1905, c. 74, differs from said section 717, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

722. Justices—Powers—Duties—Fees.—Village justices of the peace shall possess all the powers of those elected by the towns, and be governed in the exercise thereof by the same laws, in all respects, except that their official bonds shall run to the village and be approved by the council. They may also hear and determine accusations made against persons for the violation of any ordinance, by-law or regulation of the village, and upon conviction may impose the penalties prescribed. They shall have such other jurisdiction and authority as is by this chapter conferred or implied, and receive for their services the fees allowed by law to justices of the towns; provided, that in all cases where a village is situated in more than one county, the justices of the peace and constables of such village shall have and possess all powers and jurisdiction conferred on justices and constables of the towns in each of the counties in which such village is situated and may issue and serve processes in each of such counties, and shall file their bonds in each of said counties. (R. L. § 722, as amended by Laws 1907, c. 459, § 1.)

727. Council—Powers—Ordinances.

Subd. 8. *Streets—Sewers—Sidewalks—Public Grounds.*

Cited in *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

Subd. 12. *Amusements, peddlers, etc.*—[Superseded.]

See section next following, and note thereunder.

Subd. 13. *Gaming and other vices—Liquors.*—To prohibit gift enterprises, all gambling devices, and all playing of cards, dice, or other games of chance or skill for the purpose of gaming; to restrain and punish vagrants, tramps, mendicants, prostitutes, and persons guilty of lewd conduct; to punish drunkenness; and to license and regulate or prohibit the selling, bartering, disposing of, or dealing in spirituous, malt, fermented, vinous, or mixed intoxicating liquors of any kind, and to revoke any license for the sale of such liquors already granted whenever the council, after a hearing of the case, shall deem it proper. (R. L. § 727, subd. 13, as amended by Laws 1909, c. 263, § 1.)

[727—]1. **Licensing amusements, peddlers, etc.**—Fifteen. To prevent or license and regulate the exhibition of caravans, circuses, mountebanks, theatrical performances or shows of any kind; to prevent or license and regulate the keeping of billiard tables, pool tables, pigeon hole tables, bowling saloons and all other games and devices; to restrain or license, regulate and tax auctioneers, hawkers and peddlers; and in all such cases they may fix the price of said license or tax, and prescribe the term of the continuance of such license, and may revoke such license when in the opinion of the village council the good order of the public interests of the village require it; provided, that the council may in any case where in their opinion, the public interests of the citizens of the village require it, refuse to grant any license for the above purposes, and provided,

also, that twenty-five dollars a day shall be construed by the courts of said state as a reasonable price per day for an auctioneer's license issued under the above provision. The term of no such license shall extend beyond the annual election of officers next after the granting thereof. (G. S. 1894, § 1224, as amended by Laws 1905, c. 138, § 1.)

Historical.—"An act to amend subdivision fifteen of section twelve hundred and twenty-four of title three of chapter ten of the General Statutes of Minnesota for the year eighteen hundred and ninety-four, the same being an act to license amusements in certain villages in this state." Approved April 11, 1905.

Subdivision 15 of section 1224, G. S. 1894, was subdivision 15 of section 21 of chapter 145, Laws 1885, as amended by Laws 1889, c. 122, § 2. Said acts were repealed by R. L. §§ 5536, 5538; the provisions of G. S. 1894, § 1224, subd. 15, being incorporated in part in section 727, subd. 12. So far as said amended subdivision 15, as above set forth, differs from said section 727, subd. 12, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

[727—]2. **Sewers and drains—Bonds.**—That all villages now organized under the General or Special Laws of this state, shall have the power and authority to build and construct any and all necessary sewers and drains in any such village, and to build and construct all necessary outlets for the same outside the limits of any such village, and raise money for the payment therefor by issuing the negotiable bonds of any such village, provided, that the question of building and constructing such sewer and drains and necessary outlets therefor, shall first be submitted to the vote of the people of said village in the same manner as now provided by law in chapter 10, Revised Laws 1905, for the issuance of municipal bonds. That such bonds may be issued in any sum not exceeding the sum of twenty thousand dollars, anything in the charter of said village or in any law of this state which may prohibit the issuing of any bonds in excess of any specified percentage of the taxable property in said city to the contrary notwithstanding. ('07 c. 279 § 1)

Historical.—"An act to authorize all villages in this state to construct and maintain sewers and drains, and to raise money for such purposes." Approved April 22, 1907.

[727—]3. **Same—Chapter 10 to govern.**—The provisions of chapter 10, Revised Laws 1905, shall apply to and govern the issuance of any bonds herein provided for, except as modified in this act. ('07 c. 279 § 2)

[727—]4. **Free musical entertainments.**—That the village council of any village of this state is hereby authorized to expend an amount not exceeding fifty dollars annually for free musical entertainment for the public. The said council is hereby authorized to audit the bills for such expenses and allow an order for the payment of the same. ('05 c. 263 § 1)

Historical.—"An act authorizing village councils to furnish musical entertainments for the public." Approved April 18, 1905.

See R. L. § 5504.

729. Ordinances, how enacted.

See section [729—]1.

[729—]1. **Same—Publication—Effect.**—All ordinances, rules, and by-laws shall be enacted by a majority of all the members of the village council, and shall be signed by the president, attested by the recorder, and published once in a newspaper published in said village; and if there be no newspaper published in said village, then such ordinances shall be published once in a newspaper published in the county in which said village, or the larger part of its territory, shall be situated; and if there be no newspaper published in said village, or in said county, then by posting them conspicuously in

three of the most public places in said village for ten days, and shall be recorded in a book kept for that purpose. Proof of such publication by the affidavit of the printer or foreman in the office of such newspaper, or of such posting by the certificate of the village recorder, shall be attached to and filed with such ordinance or by-laws, and noted on the record thereof, and shall be conclusive evidence of the facts stated. All ordinances shall be suitably entitled, and in this style: "The village council of ——— do ordain as follows:" All authorized ordinances and by-laws shall have the force of law, and remain in force until repealed. (Laws 1885, c. 145, § 49, as amended by Laws 1905, c. 26, § 1.)

Historical.—"An act to amend section 49 of chapter 145 of the General Laws of 1885, being section 1267 of the General Statutes of 1894, relating to the passage and publication of village ordinances." Approved March 2, 1905.

Laws 1885, c. 145, was repealed by R. L. § 5536; the provisions of said section 49 thereof being incorporated in R. L. § 729. So far as Laws 1905, c. 26, differs from said section 729, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

731. Contracts—Members excluded—Bids.

Curative.—See Laws 1909, c. 186, legalizing certain contracts made with members of the council.

Letting contract.—Where plaintiff village and defendant entered into a contract for a bridge, but by reason of failure to comply with the statute as to letting the contract it was void, but plaintiff accepted the bridge and paid to defendant therefor cash and bonds, and the bridge was carried away by a flood, plaintiff could not recover the money and bonds. *Village of Pillager v. Hewett*, 98 Minn. 265, 107 N. W. 815.

733. Vacating streets.—On petition of a majority of the owners of land abutting on any street or alley or any part thereof, in any village, the council may by resolution vacate the same or any part thereof, if it shall appear for the interest of the public so to do, first giving one week's published and posted notice of a hearing to be had thereon. A certified copy of such resolution may be filed for record with the register of deeds. (R. L. § 733, as amended by Laws 1909, c. 381, § 1.)

734. Benefit assessments—Cost of land, etc.

Cited in *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

[737—]1. Sewers in villages in certain counties—Contracts, how let.—Whenever the state board of health shall deem necessary for the preservation of public health, that sewers be constructed in any village in any county in the state of Minnesota now or hereafter having a population of two hundred and seventy-five thousand or over, according to the then last preceding official national or state census, and shall so recommend to the village council, or other governing body of such village, such village council or other governing body may, by ordinance passed by the affirmative vote of at least three-fifths of all members thereof, and are hereby authorized and empowered to, construct such sewers and appurtenances thereto as the state board of health may recommend; to assess the property specially benefited thereby, and without any further authority may issue and sell bonds for the payment of the same; provided, that no contract for the construction of the same, or any part thereof where the expenditure will be more than one hundred dollars, shall be entered into, unless an advertisement shall be published for bids on the same, to be published at least once each week for three successive weeks, and the village council or other governing body shall have authority to prescribe such terms and conditions relative to the making of such bids for such contracts and relative to the security which each bidder shall be required to deposit with such bid, as such council or other governing body shall

deem expedient and proper, and they shall have authority to reject any and all bids. ('09 c. 363 § 1)

Historical.—"An act authorizing the village council or other governing body of villages in counties now or hereafter having a population of two hundred and seventy-five thousand to construct sewers and issue bonds for the payment of the same." Approved April 22, 1909.

[737—]2. **Same—Bonds, how issued and sold.**—The bonds of any such village, issued pursuant to the terms of this act, may be issued and sold from time to time as determined and authorized by ordinance or resolution adopted by the affirmative vote of at least three-fifths of all the members of the village council, or other governing body of such village, and at such place or places, and in such installments as may be provided in such resolution or ordinance, and shall bear interest at not to exceed five per cent per annum, and no such bonds shall be issued so as to make the aggregate of such bonds for which such village may be liable at any one time to exceed the sum of fifteen mills, for each dollar of the assessed valuation of the taxable property in such village. Such bonds shall be sealed with the seal of the village issuing them, and be signed by the president and the village recorder, and such bonds shall not be sold for less than par value and accrued interest, to the highest responsible bidder after notice published once each week for three successive weeks in some newspaper published in the county in which the village is situated. ('09 c. 363 § 2)

[737—]3. **Same—Proceeds, how used.**—None of the proceeds of any of the bonds issued pursuant to the provisions of this act, nor any part thereof, shall be used for any other purpose than the purposes hereinbefore specified, which purpose shall be distinctly set forth in the ordinance or resolution authorizing the same. ('09 c. 363 § 3)

[737—]4. **Same—Limitation of indebtedness.**—None of the bonds of any such village, issued pursuant to the terms and provisions of this act, shall be deemed or taken to be a part of the indebtedness of such village within the purview of any law limiting the amount of the bonded or other indebtedness of any such village, and the bonds authorized by this act may be issued notwithstanding and without regard to any limitation of the indebtedness of such village. Nevertheless, the full faith and credit of every such village is pledged to the full payment of all such bonds and interest. ('09 c. 363 § 4)

[737—]5. **Same—Assessment for benefits.**—Such village council or other governing body shall have the power and authority to assess the property specially benefited by the construction or extending of such sewer for the cost of the same, or any portion thereof, including all damages and expenses incurred by such village in construction of such sewer and appurtenances, together with cost and expense of acquiring lands for such purposes, by condemnation or otherwise. ('09 c. 363 § 5)

[737—]6. **Same—Assessments, how made.**—The assessments authorized by this act shall be made by resolution of such council or other governing body, setting forth the purpose thereof, a description of each lot or parcel benefited, the name of its owner, if known and the amount assessed thereon. Two weeks' published and posted notice shall be given of the contents of such resolution, and of the time when the council will attend at its usual place of meeting to hear objections to the assessment, or any part thereof. At such time and place the council or other governing body shall consider all objections made, and for that purpose may adjourn from day to day, not exceeding three days, and by resolution may modify such assessments or any part thereof. On October 10th

next following, if any of the assessments be not previously paid to the village treasurer, the recorder shall certify the same to the county auditor, who shall extend all such unpaid amounts against the lands assessed, and the same shall be enforced, collected, and paid over to the village treasurer as in case of other village taxes. ('09 c. 363 § 6)

[737—]7. **Road labor.**—Every male inhabitant in any village in this state organized and operating under general laws, between the ages of twenty-one and fifty years, except paupers, insane persons and others exempted by law, shall be assessed not less than one nor more than four days' labor in each year. ('09 c. 189 § 1)

Historical.—“An act relating to poll taxes in villages organized and operated under general laws, and enforcing the collection thereof.” Approved April 14, 1909.

[737—]8. **Same—Number of days' labor, how determined.**—Within twenty (20) days after the annual village election, the village council or governing board shall meet and determine by resolution the number of days of road labor to be assessed against the persons liable therefor in said village for the ensuing year, and shall make a list of all persons in said village liable for road labor, and shall place opposite the name of each person thereon, the number of days of road labor assessed against him, and such list shall be signed by the president and clerk or recorder of such village, and filed with the clerk or recorder thereof, who shall deliver a certified copy thereof to the street commissioner of such village. Such street commissioner may add the names of persons omitted from such list and all new residents that are liable for road labor to the certified copy in his hands, and thereupon such persons shall be liable for the number of days' road labor fixed by such resolution, the same as if their names had been placed on such list before the same was made and filed. ('09 c. 189 § 2)

[737—]9. **Same—Notice—Commutation for labor.**—The street commissioner shall give at least three days' notice to all the persons assessed for road labor, of the time and place when and where they shall appear for work and with what tools. Such persons may appear personally or by able-bodied substitutes, or they may elect to commute for the same or some part thereof. Commutation for labor shall be at the rate of \$1.50 per day, to be paid to the street commissioner within two days after notice to appear for work. All moneys paid to the street commissioner for labor commuted shall be at once paid by such street commissioner into the village treasury and shall be credited to the road and bridge fund of said village. ('09 c. 189 § 3)

[737—]10. **Same—Annual report of street commissioner.**—On or before December 1st in each year, the street commissioner shall render to the village council or governing board of such village, a report in writing containing:

1. The names of all persons assessed to perform road labor with the number of days each has worked.
2. The names of all persons who have commuted and the amount received for such commutation.
3. The names of all persons who have been fined and the amount of each fine, and whether the same has been paid.
4. An itemized account of all moneys paid out by him and the balance remaining in his hands.

He shall then pay over the balance to the village treasurer to be credited to the road and bridge fund of said village. ('09 c. 189 § 4)

[737—]11. **Same—Failure to perform labor—Penalty.**—Every person assessed to perform road labor in any such village on roads

and streets thereof who neglects to appear and perform such labor when duly notified and does not pay his commutation therefor, shall be guilty of a misdemeanor and upon conviction shall be fined not less than five nor more than twenty-five dollars. ('09 c. 189 § 5)

[737—]12. **Same—Prosecution.**—When no satisfactory excuse is rendered to the street commissioner for such neglect or refusal, he shall within nine days after notice has been served, as herein provided, make a complaint to a justice of the peace of such village, and if there be none in such village, then to some justice of the peace of the county in which the village or some part thereof is situated, who shall forthwith issue a warrant directed to the sheriff or any constable of the county, requiring him to arrest such citizen and bring him before such justice to be dealt with according to law. ('09 c. 189 § 6)

[737—]13. **Same—Disposal of fines.**—All fines collected under the provisions of this act shall be paid by the justice of the peace into the village treasury of the village in which the offense was committed and credited by such village treasurer to the road and bridge fund of such village. ('09 c. 189 § 7)

[744—]1. **Water, light and heating plants—Purchase—Bonds.**—Any village in this state wherein is now constructed a public water, light and heat plant, or water or light or heating plants, not owned by the village, may by resolution or ordinance of the village council, passed and approved in the usual manner, purchase such plants or any of them and issue bonds running not to exceed twenty years and bearing interest not to exceed five per cent per annum, payable semi-annually, for the purchase price or any part thereof and secure the same by lien in the form of a mortgage securing payments of the bonds upon the plant so purchased and extensions thereof and additions thereto. A written contract pursuant to and in addition to the resolution or ordinance may, if desired, be entered into between the village through its president and recorder and the persons or corporation selling the plant. ('09 c. 15 § 1)

Historical.—"An act authorizing villages to acquire water, light and heating plants." Approved February 16, 1909.

[744—]2. **Same—Submission to electors.**—Before such resolution or ordinance or contract shall take effect the same shall be submitted to the village electors at a regular village or state or special election and approved by two-thirds of those voting thereon. The ballots may be substantially as follows, to-wit: "For the purchase of a water, light and heating plant" (or the plant which is proposed to be purchased); or "Against the purchase of a water, light and heating plant" (or the plant which is proposed to be purchased). ('09 c. 15 § 2)

[744—]3. **Same—Price, how paid.**—Any part of the purchase price may be paid in cash, and it may if desired be provided in the bonds that any bond may be paid at any interest day, at the option of the village. ('09 c. 15 § 3)

[744—]4. **Same—Power to employ attorney.**—The village council may, if desired, employ attorneys for consultation in regard to said ordinance, contract and bonds. ('09 c. 15 § 4)

[744—]5. **Same—Bonds or loan from state.**—The bonds so voted may be sold to the highest bidder for not less than par or a loan obtained from the state of Minnesota in the manner provided by law for the loan of state funds to the amount thereof or for a less amount and the amount to be paid for such plant in cash from

the proceeds if such course be deemed desirable by the village council, or partly in cash and partly by the issue of bonds secured on the plant as hereinbefore provided. ('09 c. 15 § 5)

[744—]6. Same—Operation of plants.—After such plant is acquired, the village council shall make all necessary rules and regulations for the protection, maintenance and operation thereof, and the sale of its product and use of the proceeds which shall not be expended for any purpose not connected with such plant, until such bonds are paid. ('09 c. 15 § 6)

[744—]7. Franchises for water, light or heating confirmed in certain villages.—That in all cases where any incorporated village in counties now or hereafter containing two hundred and twenty-five thousand inhabitants and over in this state, whether incorporated under general or special laws, has heretofore adopted an ordinance or ordinances purporting to grant the right to any person, persons or corporation, to construct, operate and maintain in such village, water works, gas, electric light or heating plants, or either of them, and in all cases where any such village by such ordinance or ordinances or by an agreement or agreements in writing, has heretofore undertaken or attempted, among other things, to contract with such person, persons or corporation, or their assigns, for the furnishing of water, gas, electric light, heat, or power, or either of them, to such village, or the inhabitants thereof, and any such person, persons or corporation, or their assigns, has expended money in the construction and maintenance of said water works, or gas, electric light or heating plant, or either of them, and is now furnishing such village and its inhabitants with water, gas, electric light, heat or power, or either of them, such grant and contract are hereby in all things ratified, legalized and confirmed. ('05 c. 169 § 1)

Historical.—“An act legalizing and confirming village ordinances, in counties now or hereafter containing two hundred and twenty-five thousand inhabitants and over, contracts and grants of franchise for water works, gas, electric light, heat and power plants in certain cases.” Approved April 13, 1905.

[745—]1. Parks and parkways in certain villages—Board of park commissioners—Submission to voters—Election—Terms.—Any village now or hereafter located in any county of the state now or hereafter having a population exceeding two hundred and twenty-five thousand inhabitants, is hereby authorized to create a board of park commissioners, and to acquire, govern and administer lands for parks and parkways by proceedings in the manner provided in this act. The city council of such village may submit to the voters thereof at any general election or at any special election ordered for the purpose, the question whether to adopt the provisions of this act. The vote shall be by ballot, the form of which shall be as follows:

For a park and parkway system and the election of a board of park commissioners.

Yes
No

Those voting in the affirmative shall make a cross after the word “Yes,” and those voting in the negative after the word “No.” If a majority of the votes cast upon that question are in the affirmative the provisions of this act shall be deemed to be adopted, otherwise not. The village council shall at the said election provide for the election of three park commissioners, and prescribe the form of ballots in accordance with the general election law. If the provisions of this act are adopted by the vote taken as aforesaid, the three candidates receiving the highest number of votes shall be elected as park commissioners. The one receiving the highest vote shall hold office until the third annual village election next ensu-

ing; the one receiving the second highest, until the second annual village election next ensuing; and the one receiving the third highest until the first annual village election next ensuing, and until their respective successors are elected. Thereafter one park commissioner shall be elected at each annual village election to serve for three years, and until his successor is elected and qualified. The newly elected park commissioner shall take office at the same time as the newly elected members of the village council. Each park commissioner shall before entering on the duties of his office, subscribe and file with the village recorder an oath faithfully to perform his duties as such park commissioner and to the best of his ability. ('05 c. 167 § 1)

Historical.—"An act relating to parks and parkways in certain villages." Approved April 13, 1905.
See R. L. § 5504.

[745—]2. **Same—Officers—Vacancies.**—The said park commissioner[s] shall constitute a department of the village government, by the name of the board of park commissioners of the village of... They shall elect one of their own number annually as chairman and shall make rules for their meetings and for the conduct of their business. In case a vacancy occurs it shall be filled by election by the village council until the next annual village election when a park commissioner shall be elected to fill the unexpired term. The village recorder shall be the recording officer of the board. ('05 c. 167 § 2)

[745—]3. **Same—Duties and powers.**—It shall be the duty of such board of park commissioners to devise and adopt a system of parks and parkways for the village, and from time to time to add thereto. The board shall have power to acquire lands for parks and parkways by gift, devise, lease, purchase and dedication, to administer and govern the same as parks and parkways, and to ordain and establish rules and ordinances to secure the quiet, suitable and appropriate use thereof. The lands so acquired shall be held for public use as parks and parkways. ('05 c. 167 § 3)

[745—]4. **Same—Tax levy—Park fund—What land may be taken—Regulating traffic.**—The village council shall annually at the time of levying other village taxes, levy such sum as it shall deem necessary, not to exceed one mill upon the dollar of taxable property of the village, for park purposes and such taxes shall be collected with an[d] as a part of other village taxes, and paid into the village treasury, and set apart as a village park fund. The board of park commissioners shall have power to expend such fund in the acquisition, maintenance and improvement of parks and parkways. All warrants drawn upon such fund shall be accompanied by receipted vouchers showing the purpose for which the warrant is drawn, and shall be signed by the president of the board and by the village recorder, and countersigned by the president of the village council. The board of park commissioners may with the consent of the village council, take any land within the village, which has been acquired or dedicated as a public park or common, and thereafter administer and govern the same as if acquired by purchase under the provisions of this act. The board of park commissioners may also, with the consent of the village council, take as a parkway any street or highway or portion thereof, and thereafter administer and govern the same in all respects and with like powers as if it had been originally acquired as a parkway under the provisions of this act. The board of park commissioners shall have power to regulate, control and govern the traffic upon and over any parkway, and may exclude therefrom all vehicles except-

ing those in use for carrying passengers, or impose lesser restrictions thereon as it may deem best. ('05 c. 167 § 4)

[745—]5. **Same—Prosecution of offenses—Penalties.**—All offenses against ordinances of the board of park commissioners may be prosecuted before any justice of the peace or municipal court of the county. The penalty for violating such ordinance shall be by imprisonment not exceeding ninety days or by fine not exceeding one hundred dollars for each offense; and in case the fine is not paid, by imprisonment not exceeding ninety days. ('05 c. 167 § 5)

[745—]6. **Same—Eminent domain—Special assessments.**—For the purpose of acquiring lands for parks and parkway purposes, the village shall have the power of eminent domain, and the power of levying special assessments to be exercised in the manner prescribed by sections 214 to 242 inclusive, and sections 261 to 266 inclusive of chapter 8 of the General Laws of Minnesota for 1895. The proceedings therein provided for shall be conducted by the village council and the duties prescribed to be performed by the city controller and the city clerk by said chapter 8, shall be performed by the village recorder. Duties prescribed to be performed by the city engineer and city treasurer may be performed by any engineer employed by the city council, and by the village treasurer respectively. Notices may be published in any newspaper published in the village. ('05 c. 167 § 6)

[745—]7. **Same—Docks, boat houses, etc.—Contracts and leases.**—The board of park commissioners shall have power to erect docks, boat houses, bath houses, refreshment booths, amusement halls, pavilions and other structures for the comfort of the people, and to operate and administer the same and to make reasonable charges therefor. The board shall also have power with the consent of the village council to make contracts and leases for the construction and operation of such buildings for terms not exceeding ten years. Every such contract and lease shall provide that the structure shall be operated for the public use and convenience, and that the charges shall be reasonable, and shall reserve to the board of park commissioners power to prescribe reasonable rules and regulations from time to time for the conduct of the privilege. ('05 c. 167 § 7)

[745—]8. **Same—Lease to private club.**—In case any such park or parkway shall embrace the shore of any navigable lake, the board shall have power to lease to private clubs the privilege of occupying limited areas in the bed of the lake adjacent to such shore for club house purposes, for periods not exceeding ten years in any case. The space to be occupied by any one private club shall not exceed one acre. No such club house shall be located so as to interfere with navigation. Every such lease shall reserve to the board full power and authority to make from time to time reasonable rules and regulations to secure quiet and good order on the premises. The lessee in such case shall have power to retain the club house for the use of its own members and guests. Every area so leased shall be subject to all the ordinances of the village, and in particular to the ordinance relating to the sale and use of malt and intoxicating liquors. ('05 c. 167 § 8)

[745—]9. **Certain warrants in excess of debt limit legalized.**—In all villages where the village council have heretofore ordered and there has been issued and delivered to third parties who have given value therefor warrants in excess of the legal limitation therein, for the purpose of building bridges costing not over twenty thousand dollars, and said warrants or orders have been sold at

their face value, and the entire money used for the construction of such bridge or bridges, the acts of such village council are hereby legalized. ('07 c. 189)

Historical.—"An act to legalize village warrants heretofore issued in excess of the legal limitations of indebtedness." Approved April 15, 1907.

CITIES.

747. Existing charters preserved.

Cited in *State ex rel. Young v. Robinson*, 101 Minn. 277, 112 N. W. 269.

Existing charters.—The requirement of the charter of the city of Redwood Falls that all liquor licenses shall commence and terminate on the 20th of January of each year was not repealed by Laws 1895, c. 90, nor by R. L. § 1522. *Evans v. City of Redwood Falls*, 103 Minn. 314, 115 N. W. 200.

748. Home rule charters—Patrol limits.—Any city or village in the State of Minnesota, whenever incorporated, may frame a city charter for its own government in the manner hereinafter prescribed, provided, that in such cities having patrol limits established by charter, such limits shall not be altered unless the charter proposing such alteration be adopted by a three-fourths majority. (R. L. § 748, as amended by Laws 1907, c. 375, § 1.)

749. Board of freeholders.—Whenever the judges of the judicial district in which such city or village is situated, shall deem it for the best interests of the municipality so to do, they may appoint a board of freeholders to frame such charter, composed of fifteen members, each of whom shall have been a qualified voter of such city or village for five years last past; and, upon presentation to them of a petition requesting such action, signed by at least ten per cent of the number of voters of such municipality, as shown by the returns of the election last held therein, they shall appoint such board. The members shall severally hold office for the term of four years, or until they cease to be such resident voters and freeholders, and vacancies in said board shall be filled by appointment of said judges for the unexpired terms. Upon the expiration of such four-year term, the judges shall appoint a new board, in case for any reason the judges shall fail to appoint a new board within said thirty days then thereafter at any time the judges upon their own motion may, and upon the written petition of ten freeholders of said city, shall appoint said new board. Every appointment shall be made by order filed with the clerk of the court. Every appointee who shall neglect to file with the clerk within thirty days a written acceptance and oath of office shall be deemed to have declined such appointment and his place shall be filled as though he had resigned. The judges within thirty days thereafter shall make such rules with reference to such board, and require such reports, as may appear desirable or necessary. (R. L. § 749, as amended by Laws 1909, c. 423, § 1.)

750. Compensation—Expenses.—The members of such board shall receive no compensation, but the board may employ an attorney and stenographer to assist in framing such charter, and any amendment or revision thereof, and their reasonable compensation and the cost of printing such charter, or any amendment or revision thereof, when so directed by the board, shall be paid by such city or village. Provided, however, that the cost of preparation, printing and legal services in framing and submitting such charter in the first instance shall not exceed \$500. (R. L. § 750, as amended by Laws 1907, c. 216, § 1.)

Member as attorney.—The board could not employ and agree to pay one or more of its members, as counsel for it, to furnish advice and prepare a charter. *Young v. City of Mankato*, 97 Minn. 4, 105 N. W. 969, 3 L. R. A. (N. S.) 849.

751. Proposed charter, how framed.

Charter not inconsistent with Constitution.—Under Const. art. 9, § 1, construed with article 4, § 36, a charter may authorize the council to order and levy a local assessment without a preliminary petition by property owners affected by such improvement. *Wolfe v. City of Moorhead*, 98 Minn. 113, 107 N. W. 728.

When charter supersedes general laws.—Unless otherwise expressly provided, the provisions of a "home rule charter," if germane to the subject of municipal legislation, supersede the general laws with reference to the same subject-matter. *Turner v. Snyder*, 101 Minn. 481, 112 N. W. 868.

See, also, *Peterson v. City of Red Wing*, 101 Minn. 62, 111 N. W. 840; *American Electric Co. v. City of Waseca*, 102 Minn. 329, 113 N. W. 899.

A provision authorizing a rule that gas would not be supplied to a delinquent until payment of arrears had the effect of a legislative enactment. *State ex rel. Latshaw v. Board of Water & Light Com'rs of City of Duluth*, 105 Minn. 827, 117 N. W. 827.

— **Local assessments.**—The charter of the city of Crookston, adopted July 31, 1906, superseded Laws 1895, c. 235, Laws 1899, c. 128, upon the subject of local assessments for street improvements. *Turner v. Snyder*, 101 Minn. 481, 112 N. W. 868.

See, also, *Wolfe v. City of Moorhead*, supra.

— **Intoxicating liquors.**—The general laws regulating the sale of intoxicating liquors operate uniformly throughout the state, anything contained in municipal charters or ordinances to the contrary. Officers of municipal corporations organized under legislative authority are, in respect to all such general-laws, agents of the state, and may be charged with the performance of such duties in the enforcement of the same as the Legislature may from time to time impose. *State ex rel. Young v. Robinson*, 101 Minn. 277, 112 N. W. 269.

— **Notice of claim.**—The charter provision with reference to notice to the city of claims for damages caused by defective streets supersedes the general law. *Peterson v. City of Red Wing*, 101 Minn. 62, 111 N. W. 840.

The conditions upon which a municipality shall be liable for damages to individuals caused by the defective condition of a street or sidewalk is a matter which belongs properly to the government of municipalities, and may be determined and regulated in a home rule charter. *Schigley v. City of Waseca*, 106 Minn. 94, 118 N. W. 259, 19 L. R. A. (N. S.) 689.

752. Limit of bonded indebtedness.

General laws superseded.—The provisions of a charter enacted under Laws 1903, c. 238, authorizing an indebtedness up to 10 per cent. of the assessed valuation of taxable property, superseded the provisions of the General Statutes, and the limit by which the city was controlled was that fixed by the charter. *American Electric Co. v. City of Waseca*, 102 Minn. 329, 113 N. W. 899.

754. Charter—How submitted—Ballots.—Upon delivery of such draft, the council or other governing body of the city or village shall cause the proposed charter to be submitted at the next general election thereafter occurring in said city or village within six months after the delivery of such draft, and if there is no general city or village election occurring in said city or village within six months after the delivery of such draft, then the council or other governing body of said city or village shall cause the proposed charter to be submitted at a special election to be held within ninety days after the delivery of such draft as aforesaid. Provided, that said council or other governing body may call a special election for that purpose only at any time. If said election is held at the same time with the general election, the voting places and election officers shall be the same for both elections. The ballot shall bear the printed words, "Shall the proposed new charter be adopted? Yes—No," with a square after each of the last two words, in which the voter may place a cross to express his choice. And if any part of such charter be submitted in the alternative, the ballot shall be so printed as to permit the voter to indicate his preference in any instance by inserting a cross in like manner. If any charter so submitted be rejected the board may propose others from time to time until one is adopted. (R. L. § 754, as amended by Laws 1909, c. 214, § 1.)

756. Amendments.—The board of freeholders may propose amendments to such charter, and shall do so upon the petition of five per cent of the voters of the city, setting forth in substance the amendment desired. Amendments shall be submitted as in the case of the original charter, and the proposal shall be published for at least thirty days in three newspapers of general circulation in such city. The form of ballot and mode of voting shall be similar to those used upon the adoption of such charter, the general nature of each amendment being briefly indicated. If three-fifths of those lawfully voting at such election shall declare in favor of any amendment so proposed, the same shall be certified, deposited and recorded, and shall take effect, as in the case of the original charter; provided that, if it be proposed that any amendment shall take effect at a specified time, it shall take effect as proposed. (R. L. § 756, as amended by Laws 1907, c. 199, § 1.)

By section 2, Laws 1905, c. 253 (amending section 6 of Laws 1903, c. 238, which related to the framing of charters by cities and villages, and to the amendment thereof), is repealed.

Publication—Constitutional requirement.—The constitutional requirement is satisfied by publication begun in three newspapers conforming to the statutory standard and continued in every issue from the date of first publication until the time of holding the election, provided the amendment be published for a period of at least 30 days. Publication in every daily issue during 31 days in one daily newspaper, and for at least 32 days in five consecutive issues of two weekly newspapers, held to conform to law. *Wolfe v. City of Moorhead*, 98 Minn. 113, 107 N. W. 728.

- See note under Const. art. 4, § 36.

Election.—An election, held in a city after the enumeration was delivered to the Superintendent of the Census, but before its compilation and publication by him, was governed by the laws applying to cities of that class as determined by its population fixed by the previous census. *Wolfe v. City of Moorhead*, 98 Minn. 113, 107 N. W. 728.

758. Succession—Subsisting rights.

Prior ordinances.—Where a home rule charter imposed punishment for violation of ordinances by fine or imprisonment, and continued prior ordinances consistent therewith, it did not make effective a prior ordinance invalid because it imposed punishment by fine and imprisonment. *State ex rel. Bahr v. Bates*, 105 N. W. 440, 117 N. W. 844.

[758—]1. **Commission form of city government.**—That the board of freeholders appointed under the provisions of sections 748 to 755, inclusive, Revised Laws, 1905, of the state of Minnesota, and the amendments thereof, are hereby authorized and empowered, in addition to all powers now granted to any such board of freeholders, to incorporate as part of the proposed charter for any city the commission form of city government, and to provide that all elective city officers, including mayor and members of the council, shall be elected at large or otherwise. ('09 c. 170 § 1)

Historical.—“An act authorizing the board of freeholders appointed to frame charters for cities under the provisions of sections 748 to 755 inclusive, Revised Laws 1905, to incorporate in such charters provisions for a commission form of city government, and to provide non-partisan primaries and elections for all municipal officers, and to provide for the adoption of the commission form of government by amendment of such city charters.” Approved April 10, 1909.

[758—]2. **Same—Officers, how nominated and elected.**—Such board of freeholders may also provide in such proposed charter that all candidates to be voted for at all general municipal elections shall be nominated by a primary election, and that no other names shall be placed upon the ballot to be voted upon at such election, except the names of those elected in the manner which may be prescribed by such charter; and such charter may provide for a primary election to be held at such time as may be fixed preceding the general municipal elections, and that the judges of election for the general municipal election shall be the judges of the primary election, and may provide in what manner any person de-

siring to become a candidate for any elective municipal office may become a candidate for nomination at such primary election, and may provide for the publication of statements and petitions of candidates, the form of the primary election and municipal election ballots and for publication thereof, and may provide that there shall or shall not be any party designation or mark indicating that any candidate is a member of any party whatsoever, whether on said primary election ballot or upon said municipal election ballot, and may make provisions with reference to the printing, delivery and authentication of ballots and for the counting and canvass of results of such primary election or municipal election: ('09 c. 170 § 2)

[758—]3. **Same—Distribution of administrative powers.**—Such board of freeholders may also provide that the administrative powers, authority and duties in any such city shall be distributed into and among departments and may provide that the council may determine the powers and duties to be performed by and assign them to the appropriate department and determine who shall be the head of each department and prescribe the powers and duties of all officers and employes thereof, and may assign particular officers or employes to perform duties in two or more departments, and make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city. ('09 c. 170 § 3)

[758—]4. **Same—Powers of mayor and council.**—Said board of freeholders may incorporate in such charter provisions defining the powers and duties of the mayor and each member of the council, and may provide that each member of the council shall perform such administrative duties as may be designated in such charter. ('09 c. 170 § 4)

[758—]5. **Same—Recall and removal of officers—Ordinances.**—Such board of freeholders may also provide for the recall of any elective municipal officer and for his removal by vote of the electors of such city, and may also provide for submitting ordinances to the council by petition of the electors of such city and for the repeal of ordinances in like manner; and may also provide that no ordinance passed by the council except an emergency ordinance shall take effect within a certain time after its passage, and that if, during such time, a petition be made by a certain percentage of the electors of the city protesting against the passage of such ordinance until the same be voted on at an election held for such purpose, and then such ordinance to take effect or not as determined by such vote. ('09 c. 170 § 5)

[758—]6. **Same—Application of general election laws.**—The provisions of any charter of any such city adopted pursuant to this act shall be valid and shall control as to nominations, primary elections and elections for municipal offices, notwithstanding that such charter provisions may be inconsistent with any general law relating thereto, and such general laws shall apply only in so far as consistent with such charter. ('09 c. 170 § 6)

[758—]7. **Same—Submission of amendments.**—Nothing in this act contained shall be held to abridge, impair or diminish the right of electors in any city now having or which shall hereafter have such a board of freeholders and a home rule charter, to require the submission of amendments to the charter of such city, as provided in section 756 of the Revised Laws of 1905, but, in addition to the provisions of said section 756, five per cent of the electors may, by petition, as provided in said section 756, require the submission of amendments to such charter, embodying the commission plan.

of government, in whole or in part, as more particularly described and set forth in sections 1, 2, 3, 4, 5 and 6 [758—1 to 758—6] of this act. ('09 c. 170 § 7)

[758—]8. New charter authorized.—Any city in this state which now has, or may hereafter adopt, a so-called "home rule" charter by and under the provisions of section 36, article 4 of the constitution, and of any statutes enacted in pursuance thereof, is hereby authorized and empowered to frame, submit and adopt a new charter in the same manner and mode as is by law provided for the original adoption of such so-called "home rule" charter. ('09 c. 236 § 1)

Historical.—"An act relating to the readoption of a new charter or a revision of a charter already adopted or hereafter to be adopted by any city for its government as a city under the provisions of section 36, article IV of the Constitution, and of any statutes enacted in pursuance thereof." Approved April 19, 1909.

Section 4 repeals inconsistent acts.

[758—]9. Same—Amendments authorized.—Any city named in section one [758—8] hereof is hereby authorized and empowered to amend its present so-called "home rule" charter in the nature of a revision and submit and adopt such revision as is by law provided for the original adoption of such so-called "home rule" charter. ('09 c. 236 § 2)

[758—]10. Same—Not obligatory to report to chief magistrate within six months.—It shall not be necessary or obligatory for the board of freeholders framing such new charter, or making such revision hereunder, to return the same to the chief magistrate of such city within six months. ('09 c. 236 § 3)

[758—]11. Act regulating cities of first class not applicable unless expressly declared.—No act regulating any of the affairs of cities, of the first class, shall be deemed applicable to any city therein existing under a charter framed and adopted under section 36 of article 4 of the state constitution, authorizing the adoption by cities of charters for their own government, unless the intention to make the same so applicable shall by such act be expressly declared. ('09 c. 172 § 1)

Historical.—"An act relative to the construction of laws regulating the affairs of cities of the first class." Approved April 13, 1909.

[758—]12. Certain charters legalized.—In any case where in an (any) city or village in this state a city charter has been prepared and filed with the chief magistrate or chief executive officer of said city or village by a number of persons, not less than ten, purporting to be a board of freeholders and to have been appointed and to have acted under section 36, article 4, of the constitution of this state and the laws of this state enacted thereunder. And such charter has been actually submitted to the qualified voters of such city or village at a general or special election held therein; and such charter has been ratified and adopted by a vote of not less than four-sevenths of the qualified voters voting at such election; and such charter has been actually put in operation in said city or village, and officers have been elected therein under said charter and have qualified and entered upon their duties, then such charter is hereby legalized and made the lawful city charter of said city or village, and to have the same force and effect and to be of like validity as if each, all and every requirement of law for the appointment and qualification of the board of freeholders to prepare and propose the same, the preparation, proposal and filing thereof by said board of freeholders, the submission thereof to the voters of said city and the ratification and adoption thereof by the voters of said city, and the certifying and filing thereof in the office of the register of deeds of the county and in the office of the secretary

of state had in all things been fully complied with: Provided, that if said city charter has not been filed in the office of the register of deeds of the county, a copy thereof, certified to by the mayor of said city, elected under said charter, shall be filed in said office within sixty days after the passage of this act. And if said city charter has not been deposited in the office of the secretary of state, a copy thereof, certified by the mayor, elected under said charter, shall be deposited in said office within sixty days after the passage of this act. ('05 c. 29 § 1)

Historical.—"An act to legalize city charters in certain cases, and the acts of officers thereunder." Approved March 3, 1905.

[758—]13. **Same—Acts of officers validated.**—All acts of the officers of any such city or village, elected and qualified under such charter, shall have the same force and validity as if said charter had originally been fully valid and legal. ('05 c. 29 § 2)

[758—]14. **Same—Vested rights, etc.**—This act shall not affect vested rights nor actions now pending. ('05 c. 29 § 3)

[758—]15. **Certain charters legalized.**—In any case where in any city or village in this state a city charter has been prepared and filed with the chief magistrate or chief executive officer of said city or village by a number of persons, not less than fifteen, purporting to be a board of freeholders and to have been appointed and to have acted under section 36, article 4, of the constitution of this state and the laws of this state enacted thereunder; and such charter has been actually submitted to the qualified voters of such city or village at a general or special election held therein; and such charter has been ratified and adopted by a vote of not less than four-sevenths of the qualified voters voting at such election; and such charter has been actually put in operation in said city or village, and officers have been elected therein under said charter and have qualified and entered upon their duties, then such charter is hereby legalized and made the lawful city charter of said city or village, and to have the same force and effect and to be of like validity as if each, all and every requirement of law for the appointment and qualification of the board of freeholders to prepare and compose the same, the preparation, proposal and filing thereof by said board of freeholders, the submission thereof to the voters of said city and the ratification and adoption thereof by the voters of said city, and the certifying and filing thereof in the office of the register of deeds of the county and in the office of the secretary of state had in all things been fully complied with. ('07 c. 373 § 1)

Historical.—"An act to legalize city charters in certain cases, and the acts of officers thereunder." Approved April 23, 1907.

[758—]16. **Same—Acts of officers validated.**—All acts of the officers of any such city or village, elected and qualified under such charter, shall have the same force and validity as if said charter had originally been fully valid and legal. ('07 c. 373 § 2)

[758—]17. **Same—Vested rights, etc.**—This act shall not affect vested rights nor actions now pending. ('07 c. 373 § 3)

[758—]18. **Certain charters legalized—Duties of officers.**—In any case wherein in any city or village in this state a city charter has been prepared and filed with the chief magistrate or chief executive officer of said city or village by a number of persons, not less than ten purporting to be a board of freeholders and to have been appointed and to have acted under section 36, article 4, of the constitution of this state and the laws of this state enacted thereunder, and such charter has been actually submitted to the qualified voters of such city or village at a general or special election held therein; and such charter has been ratified and adopted by a vote of not less than four-sevenths of the qualified voters voting at such

election; and such charter has been actually put in operation in said city or village, and officers have been elected therein under said charter and have qualified and entered upon their duties, then such charter is hereby legalized and made the lawful city charter of said city or village, and to have the same force and effect and to be of like validity as if each, all and every requirement of law for the appointment and qualification of the board of freeholders to prepare and propose the same, the preparation, proposal and filing thereof by said board of freeholders, the submission thereof to the voters of said city and the ratification and adoption thereof by the voters of said city, and the certifying and filing thereof in the office of the register of deeds of the county and in the office of the secretary of state had in all things been fully complied with. Provided, that if said city charter has not been filed in the office of the register of deeds of the county, a copy thereof, certified to by the mayor of said city, elected under said charter, shall be filed in said office within sixty days after the passage of this act. And if said city charter has not been deposited in the office of the secretary of state, a copy thereof, certified by the mayor, elected under said charter, shall be deposited in said office within sixty days after the passage of this act. ('09 c. 177 § 1)

Historical.—"An act to legalize city charters in certain cases, and the acts of officers thereunder." Approved April 13, 1909.

[758—]19. **Same—Acts of officers validated.**—All acts of the officers of any such city or village, elected and qualified under such charter, shall have the same force and validity as if said charter had originally been fully valid and legal. ('09 c. 177 § 2)

[758—]20. **Same—Vested rights, etc.**—This act shall not affect vested rights nor actions now pending. ('09 c. 177 § 3)

[758—]21. **Annexation of territory legalized.**—That the annexation of any additional territory or enlargement of boundaries by any city or village in this state heretofore made, between Jan. 1st, 1903, and April 15th, 1903, in framing and adopting its charter, under and pursuant to the provisions of section 36, article 4, of the Constitution of the State of Minnesota, and chapter 351 of the Laws of Minnesota for the year 1899, be and the same are hereby in all things legalized and confirmed: Provided, that the provisions of this act shall not extend or apply to any action or proceeding now pending. ('05 c. 3 § 1)

Historical.—"An act legalizing the acts of cities and villages in the annexation of additional territory or enlarging their boundaries when framing and adopting their charters, pursuant to section 36, article 4, of the Constitution, and chapter 351 of the Laws of Minnesota for the year 1899." Approved February 3, 1905.

PROVISIONS RELATING TO ALL CITIES.

[758—]22. **Observance of Memorial Day—Appropriation.**—The city council or common council of each and every city in the state of Minnesota, in addition to all other powers now possessed by it, is hereby empowered and authorized to set apart, appropriate and expend, or cause to be expended, in such manner as it may deem best, from any funds in the city treasury available therefor, an amount not to exceed the sum of three hundred dollars annually for the purpose of aiding in the appropriate observance of Memorial Day on the 30th day of May of each year and in the annual commemoration of the noble and valiant deeds of the nation's soldier dead. ('09 c. 365 § 1)

Historical.—"An act to authorize and empower cities of the state of Minnesota to annually appropriate and expend not to exceed \$300 for the appropriate observance of Memorial Day." Approved April 22, 1909.

See Laws 1909, c. 161, legalizing payments for observance of Memorial Day and Independence Day, in 1907 and 1908.

[758—]23. **Public utilities defined.**—For the purposes of this act public utilities shall include street railways, telephones, water works, gas works, and electric light, heat or power works. ('07 c. 452 § 1)

Historical.—"An act to authorize cities to acquire, construct, own, operate and lease public utilities, and to provide the means therefor." Approved April 25, 1907.

[758—]24. **Same—Cities may own and operate or lease—Submission to voters—Reservations in grant—Ordinance authorizing lease—Petition for submission—Regulations and rates—Bonds—Purchase and condemnation—Valuation—Rental.**—Every city of this state shall have the power to own, construct, acquire, purchase, maintain and operate any public utility within its corporate limits, and to lease the same, or any part of the same, to any company incorporated under the laws of this state, for the purpose of operating such public utility for any period not longer than twenty years, on such terms and conditions as the city council shall deem for the best interests of the public. But no city shall proceed to operate any such public utility unless the proposition to operate shall first have been submitted to the electors of such city as a separate proposition and approved by three-fifths of those voting at such election. But any city now owning and operating its own water works, or other public utilities, may continue to own and operate the same in the same manner as is now authorized by law to own and operate the same, without submitting any proposition so to do to the electors thereof, and no lease thereof for any term shall be made until confirmed by the voters of such city, as herein provided. It shall be lawful for any such city to incorporate in any grant of the right to construct or operate any such public utility, a reservation of the right on the part of such city to take over all or part of such public utility, at or before the expiration of such grant upon such terms and conditions as may be provided in the grant; it shall also be lawful to provide in any such grant, that in case such reserved right be not exercised by the city and it shall grant a right to another company to operate such public utility in the streets and parts of streets occupied by its grantee under the former grant, the new grantee shall purchase and take over such public utility of the former grantee, upon the terms that the city might have taken it over, and it shall be lawful for the city council of any city to make the grant containing such a reservation for either the construction or operation, or both the construction and operation of such public utility, in, upon, and along any of the public streets, alleys or ways therein, or portions thereof, in which such public utility is already located at the time of making such grant, without the petition or consent of any of the owners of the land abutting or fronting upon any street, public alley or way, or portion thereof, covered by such grant. No ordinance authorizing the lease for a longer period than five years, nor any ordinance renewing this lease, shall go into effect until the expiration of sixty days from and after its passage. And if, within said sixty days, there is filed with the clerk of such city a petition signed by ten per cent of the voters voting at the last preceding election for mayor, in such city, asking that such ordinance be submitted to a popular vote, then such ordinance shall not go into effect unless the question of the adoption of such ordinance shall first be submitted to the electors of such city and approved by a majority of those voting thereon. The signatures of such petition need not all be appended to one paper, but each signer shall add to his signature, which shall be in his own handwriting, his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer, competent to administer oaths, that each signature to the paper ap-

pendent is the signature of the person whose name purports to be thereto subscribed. The city council of any city [which] shall decide by popular vote, as in this act provided, to operate any public utility, shall have the power to make all needful rules and regulations respecting the operation of same, including the power to fix and prescribe rates and charges, but such rates and charges shall be high enough to produce a revenue sufficient to bear all the costs of maintenance and operation, and to meet interest charges on all bonds or certificates issued on account of such public utility, and to permit the accumulation of a surplus or sinking fund that should be sufficient to meet all such outstanding bonds or certificates at maturity. For the purpose of acquiring any such public utility either by purchase or construction, as provided for in this act, or for the equipment of any such public utility, any city may borrow money and issue its negotiable bonds therefor, pledging the faith and credit of the city; but no such bonds shall be issued, unless the proposition to issue the same shall first have been submitted to the electors of such city, and approved by three-fifths of those voting thereon, nor in any amount in excess of the cost to the city of the property for which said bonds were issued, as ascertained as elsewhere provided in this act, and ten per cent of such cost in addition thereto. In exercise of the powers, or any of them, granted by this act, any such city shall have power to acquire, take and hold any and all franchise or franchises, and necessary property, real, personal or mixed, for the purposes specified in this act, either by purchase or condemnation in the manner provided by law for the taking and condemning of private property for public use, but in no valuation of public utility property for the purpose of any such acquisition, except of such public utilities now operating under such existing franchises shall any sum be included as the value of any earning power of such utility, or of the unexpired portion of any franchise granted by said city. In case of the leasing by any city of any public utility owned by it, the rental reserved shall be based on both the actual value of the tangible property and of the franchise contained in such lease, and such rental shall not be less than a sufficient sum to meet the annual interest upon all outstanding bonds or certificates issued by said city on account of any such public utility. ('07 c. 452 § 2)

[758—]25. Same—Certificates in lieu of bonds—How payable—Limit—Mortgage, etc.—Foreclosure—Submission to voters.—In lieu of issuing bonds pledging the faith and credit of the city, as provided for in section 2[758—24] of this act, any city may issue and dispose of interest-bearing certificates, to be known as the "street railway certificates," "telephone certificates," "water works certificates," "gas works certificates," "electric light, heat or power works certificates," as the case may be, which shall, under no circumstances, be and become an obligation or liability of the same, or payable out of the general fund thereof, but shall be payable solely out of the specified portion of the revenues or income to be derived from such public utility property, for the acquisition of which they were issued. Such certificates shall not be issued and secured on any such public utility property in an amount in excess of the cost to the city of such property as hereinbefore provided, and ten per centum of such cost in addition thereto. In order to secure the payment of such public utility certificates, and the interest thereon, the city may convey by way of mortgage, or deed of trust, any or all of the property thus acquired or to be acquired through the issue thereof; which mortgage or deed of trust shall be executed in such a manner as directed by the city council and acknowledged and recorded in the manner provided by law for the acknowledgment and recording of mortgages of real estate, and may contain

such conditions and provisions not in conflict with the provisions of this act, as may be deemed necessary to fully secure the payment of the certificates described therein. Any such mortgage or deed of trust may carry the grant of a privilege or right to maintain and operate the property covered thereby, for a period not exceeding twenty years from and after the date such property may come in the possession of any person or corporation as a result of foreclosure proceedings; which privilege or right may fix the rates which the person or corporation securing the same as a result of the foreclosure proceedings shall be entitled to charge in the operation of said property, for a period not exceeding twenty years. Whenever, and as often as default shall be made in the payment of such certificate issued or secured by mortgage or deed of trust, as aforesaid, or in the payment of the interest thereon when due, and any such default shall have continued for the space of twelve months after notice thereof has been given to the mayor and financial officer of the city issuing such certificates, it shall be lawful for any such mortgagee or trustee, upon the request of the holder or holders of a majority in amount of the certificates issued and outstanding under such mortgage or deed of trust, to declare the whole of the principal of all such certificates as may be outstanding, to be at once due and payable, and to proceed to foreclose such mortgage or deed of trust in any court of competent jurisdiction. At a foreclosure sale, the mortgagee or the holders of such certificates may become the purchaser or purchasers and the rights and privileges sold, if he or they be the highest bidders. Any public utility acquired under any such foreclosure shall be subject to regulation by the corporate authorities of the city to the same extent as if the right to construct, maintain and operate such property had been acquired through a direct grant without the intervention of foreclosure proceedings; provided, however, that no such public utility certificates or mortgage shall ever be issued by any city under the provisions of this act, unless and until the question of the adoption of the ordinance of the city council making provision of the issue thereof shall have first been submitted to a popular vote and approved by a majority of the qualified voters of the city voting upon such question. ('07 c. 452 § 3)

[758—]26. Same—Accounts, how kept—Annual report.—Every such city owning or owning and operating any such public utility shall keep the books of account for such public utility distinct from other city accounts, and in such manner as to show the true and complete financial results of such city ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to such city of such public utilities owned; all cost of maintenance, extension and improvement; all operating expenses of every description, in case of such city operation; the amount set aside for sinking fund purposes. The city council shall cause to be printed annually, for public distribution, a report showing the financial results of such city ownership, or ownership and operation. ('07 c. 452 § 4)

[758—]27. Same—Adoption of act—Submission to voters.—This act shall not be in force in any city until the question of its adoption in such city shall first have been submitted to the electors of such city at the general or city election or at a special election called for that purpose, and is approved by the affirmative vote of three-fifths of those voting at such election. The city council of any such city named, by ordinance, direct that the question of the adoption of this act in such city be submitted to popular vote at any general or city election called for that purpose in and for the entire city, coming not sooner than thirty days from and after

the passage of the ordinance. If the city council in any city shall incorporate in any grant to a private company of the right to construct or operate any public utility, a provision reserving to such city the right to take over such property at or before the expiration of the grant, in case the people of such city shall later adopt this act, as herein provided, such provision shall be as valid and effective for all purposes, in case such city shall later adopt this act as herein provided, as if the said provision were made a part of this grant after the adoption of this act by said city. ('07 c. 452 § 5)

[758—]28. Same—Ordinance for submission—Election—Ballots.—In all cases provided in this act for the submission of questions or propositions to popular vote the city council shall pass an ordinance stating the substance of the proposition or question to be voted upon and designating the election at which such question or proposition is to be submitted, which may be at any general or city election or special election called for that purpose; provided, that such election shall not be held sooner than thirty days from and after the passage of said ordinance. Notice of special election which shall be held in any city under this act and all proceedings respecting the same shall conform as nearly as may be to the law governing other special elections therein. And all ballots as to any proposition or question submitted pursuant to the terms of this act shall be delivered to the election judges, shall be deposited in a separate box and shall be counted, canvassed and returned, as is provided by law in case of other ballots, and the tally sheets and return blanks shall contain suitable columns and spaces therefor. ('07 c. 452 § 6)

[758—]29. Same—Time limit of grant or lease.—Nothing in this act contained shall be construed to authorize any city to make any grants or to lease any public utility for a period exceeding twenty years from the making of such grant or lease; provided, that when a right to maintain and operate a public utility for a period not exceeding twenty years is contained in a mortgage or deed of trust to secure any of the certificates hereinbefore mentioned, (and no such right shall be implied), such period shall commence as provided in section 3[758—25] of this act. ('07 c. 452 § 7)

PROVISIONS RELATING TO CERTAIN CITIES.

[765—]1. Deposit of funds of cities not under home rule charters—Designation of depositories.—The city council or common council of any city in this state, and not including cities now or hereafter governed under a charter adopted under and pursuant to section 36, article 4 of the constitution of this state, and sections 747 to 758 inclusive of Revised Laws of Minnesota, 1905, shall have the power and authority, at the beginning of each calendar year, to designate and from time to time redesignate the banks, banking houses and other depositories of any such city in which the city treasurer of such city shall deposit and keep the moneys of such city, designating in each instance the maximum amount which may at any time be kept in any one of such depositories, which maximum amount shall in no case exceed 25 per centum of the paid-up capital and surplus of such depository. The city council or common council of each city shall at all times designate depositories in their respective cities or elsewhere in the United States sufficient for the depository of all funds which are likely to be in the hands of the city treasurer of such city at any one time, and shall, so far as consistent with the best interest of such city, designate such depositories in their respective cities and shall require from such depositories good and sufficient bonds payable to such city for double

the amount of money likely to be received, and conditioned for the safe-keeping and payment of funds so deposited. ('07 c. 17 § 1)

Historical.—"An act to authorize cities of this state, and not including cities now or hereafter governed under a charter adopted under and pursuant to section 36, article 4 of the Constitution of this state, and sections 747 to 753, inclusive, of Revised Laws of Minnesota, 1905, to designate depositories of city funds." Approved February 21, 1907.

See section [54—]1.

[765—]2. Same—Duty of treasurer—Exemption from liability.—The city treasurer of each city where depositories have been designated in accordance with this act, shall keep the funds of such city as far as possible in the depositories so designated, and when so deposited the treasurer and the sureties on the official bond of such treasurer shall be exempt from all liability for the loss of any such funds so deposited as in this act provided, if such loss is caused by the failure, bankruptcy or any other act of default of such depository. ('07 c. 17 § 2)

[765—]3. Same—Failure to designate.—The failure of the city council or common council of any city to designate depositories, as in this act provided, shall not exempt or relieve the city treasurer of such city or the sureties on his official bond from any liability. ('07 c. 17 § 3)

[765—]4. Same—Duty of council—Interest.—The city council or common council of any city authorized under this act to designate depositories shall exercise all possible care to secure safe depositories for the city funds of such city and to obtain the highest rate of interest possible consistent with safety for such moneys. All interest received in any way for the use or keeping of moneys or on account of the same shall be the property of such city and shall be credited to the current expense fund of such city. ('07 c. 17 § 4)

[765—]5. Same—Money, how deposited—Checks, how drawn.—All moneys of any such city kept in accordance with this act in any depository designated by the city council or common council of any city shall be kept and deposited in the name of such city and such depository or depositories shall have no authority to pay out any such money except upon checks drawn upon such depository or depositories signed by the city treasurer and countersigned by the city comptroller or recording officer of such city. ('07 c. 17 § 5)

[765—]6. Same—Withdrawal of funds—Duty of treasurer—Resignation.—The city treasurer of any city who has city funds deposited in accordance with this act shall, whenever notified so to do by the sureties on his official bond or by the city council or common council of such city, withdraw all funds from any designated depository, and it shall be the duty of the city comptroller or other recording officer of such city to countersign all checks for such withdrawal. Said city treasurer shall thereupon, upon such withdrawal, notify the city council or common council of such city thereof and thenceforth such city treasurer shall deposit no more funds in such depository until authorized so to do by the city council or common council of such city. And upon such withdrawal, it shall be the duty of the city council or common council of such city to proceed forthwith to redesignate, in accordance with the provisions of this act. ('07 c. 17 § 6)

[765—]7. Incorporation within city limits of land of state institutions.—Whenever the board of control of state institutions shall petition the city council of any city, the limits of which shall be the dividing line between such city and the lands surrounding any state institution, describing said lands, for leave to have such

lands come into and be part of such city, the city council thereof may adopt a resolution which shall describe such lands and provide for their incorporation within the limits of said city, and upon the recording of an authenticated copy thereof with the register of deeds of the county or counties within which such city, or any part thereof is situated, and, in case such city and said lands are in different counties, upon the recording of such authenticated copy of such resolution in the office of the register of deeds of the county in which such lands are situated, such lands shall become a part and be included within the limits of such city for all purposes. ('05 c. 110 § 1)

Historical.—"An act to provide for the incorporation of the lands of state institutions with the territory of adjoining cities in certain cases." Approved April 5, 1905.

See sections [765—] 123 to [765—] 126.

[765—]8. **Water works, and light or power plants in cities organized under special laws having not over 5,000 inhabitants—How acquired—Bonds.**—Whenever any charter, general or special election, held in any city in the class hereinafter mentioned, the electors thereof by an affirmative vote of three-fifths of the electors voting thereat so determine, any city in the state of Minnesota having 5,000 population or less, organized and existing under a special law, is hereby authorized and empowered, in addition to all powers to issue bonds conferred upon it by its city charter, or by virtue of any general or special law, and in addition to all other bonds that it is by law authorized to issue, to issue its bond in the aggregate amount hereinafter mentioned to be determined as hereinafter set forth, and to dispose of the same as hereinafter provided, and to use the proceeds thereof for the purpose of acquiring, constructing, extending, enlarging, improving or purchasing municipal water works, light and power plants, or of acquiring or purchasing lands or rights for the erection, establishment and maintenance of dams and reservoirs for the purpose of furnishing water, light or power to the public, or for either or all of such purposes, but in each such case the said city may either acquire such plant or property at such price, not exceeding its fair value, and on such terms as may be agreed upon between such city and the owner thereof, or if such arrangement as to price and terms cannot be agreed upon, may acquire such property by condemnation thereof. The procedure in event of condemnation shall be that prescribed by chapter 41, Revised Laws, 1905, and the purchase price of said property as so fixed by agreement or condemnation may be paid out of the proceeds of the bonds by this act authorized to be issued and the balance of the proceeds, if any, may be used for the extension, enlargement or improvement of such plant or property so acquired. ('09 c. 323 § 1)

Historical.—"An act empowering any city organized by a special law, having a population of 5,000 or less, to construct municipal waterworks, reservoirs, dams, light and power plants, or to acquire by purchase or condemnation such waterworks, reservoirs, dams, light and power plants as are already in existence, and to extend, improve, change and enlarge the same, and to authorize any such city to acquire by condemnation or purchase lands for the erection, establishment and maintenance of dams and reservoirs for the purpose of furnishing water, light or power to the public, and to issue bonds for any or all of such purposes." Approved April 21, 1909.

[765—]9. **Same—Submission to voters.**—Whenever the city council of any such city, at any regular or special meeting thereof, determine by resolution duly adopted by two-thirds vote of all members thereof, entered upon the minutes of the proceedings, that it is necessary to acquire by purchase or condemnation, or both, waterworks, light or power plants already in existence, or to construct, enlarge, extend, establish or improve a municipal water,

light or power plant, or to acquire as aforesaid lands or shore or flowage rights along, by or near any lake or river for the purpose of erecting or establishing or maintaining reservoirs or dams for water or power purposes, or either or all thereof, as the case may be, and that the funds in the treasury of such city are not sufficient for such purposes, and that it is necessary to issue the bonds of such city in an amount to be determined by such city council in such resolution, not exceeding in the aggregate ten per cent of the assessed valuation of the taxable property of such city according to the last preceding assessment thereof, such city council may cause the proposition of issuing such bonds, in such an amount, to be submitted to the electors of said city at any charter, general or special election to be held therein. Such resolution shall fix the time of said voting, if the same be submitted at special election, which shall be not less than ten days after the date of the adoption of said resolution, and said special election shall be conducted as provided by law for charter elections. The notice of such election at which said proposition is to be submitted, whether general, charter or special, shall contain a statement of the total amount of the principal of said bonds, and the purposes to which it is proposed to put the same. ('09 c. 323 § 2)

[765—]10. **Same—Ballots—Election.**—In voting upon said proposition the ballots used shall have written or printed, or partly written and partly printed thereon, the words "Issue of Bonds," "Yes," "No"—and each elector voting on such proposition shall make a cross mark thus (X) in one of the two spaces left for that purpose, upon the margin of the ballot used. The elector desiring to vote in favor of issuing bonds shall make a cross mark thus (X) in the place left opposite the word "Yes," and the elector desiring to vote against the issuing of bonds shall make a cross mark thus (X) in the place left opposite the word "No," and no ballot shall be counted on said proposition except those having said cross mark (X) opposite one only of said words, "Yes," "No." The voting shall be conducted in the same manner as provided by law for the election of city officers, and shall be counted, returned and canvassed in the same manner as provided by law for the election of city officers, and if upon such canvass it appears that a majority of all the votes cast upon said proposition shall be in favor of the issuing of such bonds, the same may thereafter be issued in accordance with the provisions of this act, but not otherwise. ('09 c. 323 § 3)

[765—]11. **Same—Bonds, how issued.**—Whenever three-fifths of the electors of any such city at any such election shall declare in favor of issuing the bonds of such city hereunder, such city, and the city council thereof, is hereby authorized and empowered by an affirmative vote of two-thirds of the members of such city council to issue the bonds of said city in an amount to be determined by said city council, not exceeding in the aggregate the amount contained in the said proposition adopted by the electors at said election, and such city council may dispose of the same as hereinafter provided, and may use the same and the proceeds thereof for any of the purposes which the resolution provided for in section two [765—9] of this act shall specify, but not otherwise. ('09 c. 323 § 4)

[765—]12. **Same—Terms of bonds, etc.**—Such bonds shall be of such denomination as the city council shall determine, shall be payable at such place as the city council may designate; at such times, not less than ten nor more than thirty years from date of issue; shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as such city may deem best, and shall draw interest payable semi-annually at such place as the city council may determine at a rate not exceeding five per

cent per annum, to be represented by coupons attached to said bonds. Said bonds and coupons shall be signed by the mayor and attested by the clerk or similar officer of such city, and the corporate seal of the city shall be impressed upon said bonds. ('09 c. 323 § 5)

[765—]13. Same—Bonds, how disposed of—Use of proceeds.—The city council of any such city shall have authority by a majority vote of all members to dispose of such bonds in such manner as in the judgment of said city council shall best subserve the interests of the city, but it shall not negotiate the sale, nor dispose of, nor sell said bonds, nor any of them, at less than their par value and accrued interest, either for cash or for property at its fair value, and neither the said bonds nor the proceeds of the sale thereof shall be used for any other purpose than specified in said resolution contemplated by section two [765—9] hereof, and such purpose shall be again distinctly stated in said resolution of said council authorizing the issuance thereof. ('09 c. 323 § 6)

[765—]14. Same—Lien of bonds, etc.—The principal and interest of any such bonds so issued is hereby declared to be a first lien upon the municipal waterworks, light or power plants, dams or reservoirs, respectively constructed or required by means of said bonds or the proceeds of the sale thereof, and the faith and credit of such city issuing the bonds is hereby irrevocably pledged to the payment thereof, any provisions of the law of this state, whether general or special, to the contrary notwithstanding: ('09 c. 323 § 7)

ADDITIONAL PROVISIONS RELATING TO CITIES OF FIRST CLASS.

[765—]15. Attaching new territory—Petition—Approval of mayor and town board—Notice—Proclamation.—Lands not exceeding 50 acres in area, adjoining and contiguous to any organized city of over 50,000 inhabitants may, upon the approval of the mayor of said city, and the board of supervisors of the township in which such lands are located, be attached to, and become part of such city upon the petition of 500 legal voters thereof requesting that said territory be so attached. Said petition shall before its presentation to the mayor be first approved by said board of supervisors, which approval shall be endorsed thereon, signed by a majority of said board and attested by the town clerk, provided, however, that after presentation of said petition to the mayor for approval or rejection, a notice specifying the substance thereof and that an application will be made to him to approve the same at a time and place therein named not less than 20 days from the date thereof shall be served upon the owner of said premises so proposed to be attached by the delivery of a copy thereof, or if he cannot be found, of which fact the return of the sheriff that he cannot be found in said county shall be prima facie evidence, then upon the person or persons in actual possession of said premises at least twenty days prior to the date fixed in said notice. If the lands are vacant and unoccupied, and the owner of the record title cannot be found in said county, then said notice shall be published in some newspaper of general circulation, published in said city in one issue thereof, at least twenty days prior to said date. If approved by the mayor, the same shall be endorsed upon said petition and further evidenced by proclamation to be issued by him reciting the prayer of said petition, the number of signatures attached thereto, the approval thereof by said board of supervisors, and certifying that such territory, describing it, is a part of such city, which said proclamation shall be deemed to be prima facie evidence of the matters therein stated, and of the legality and regularity of all proceedings involv-

ing the annexation of such territory. Said petition shall be addressed to the mayor and upon presentation shall be filed and recorded in his office. ('05 c. 219 § 1)

Historical.—"An act to provide for the addition of certain territory to cities having a population of over 50,000." Approved April 17, 1905.

See R. L. § 5504.

[765—]16. Same—Duty of council.—Said proclamation shall be recorded in the office of the register of deeds of the county in which said territory is situated and also in the office of the secretary of state, whereupon said lands shall be deemed to be attached to and a part of said city. ('05 c. 219 § 2)

[765—]17. Same—Expenses, how paid.—The expenses incident to such proceedings shall be audited and paid by the city, provided the lands are annexed thereto. ('05 c. 219 § 3)

[765—]18. Salary of mayor in cities not under home rule charters.—That in cities now or hereafter having over fifty thousand inhabitants, the salary of the mayor shall be five thousand dollars per annum, payable pro rata monthly. Provided, that this act shall not include or apply to cities now or hereafter governed under a charter adopted under and pursuant to section 36, article 4, of the constitution of this state. ('07 c. 370 § 1)

Historical.—"An act to fix salaries of mayors in cities now or hereafter having over fifty thousand inhabitants and not including cities now or hereafter governed under a charter adopted under and pursuant to section 36, article 4, of the constitution of this state." Approved April 23, 1907.

Section 2 repeals inconsistent acts.

This appears to supersede the section next following, so far as it fixes the salary of the mayor.

[765—]19. Salaries of mayor and aldermen in cities not under home rule charters.—That in cities now or hereafter having over fifty thousand inhabitants, the salary of the mayor shall be four thousand dollars per annum, and the salary of each alderman shall be twelve hundred dollars per annum, payable pro rata monthly out of the city treasury. Provided, that this act shall not include or apply to cities now or hereafter governed under a charter adopted under and pursuant to section 36, article 4 of the constitution of this state, as amended, and chapter 351 of the General Laws of 1899 and amendments thereto. ('07 c. 98 § 1)

Historical.—"An act to fix salaries of certain elective officers in cities now or hereafter having over fifty thousand inhabitants, and not including cities now or hereafter governed under a charter adopted under and pursuant to section 36, article 4, of the constitution of this state as amended, and chapter 351 of the General Laws of 1899 and amendments thereto." Approved April 4, 1907.

Section 2 repeals inconsistent acts.

This section appears to be superseded by the section next preceding, so far as it fixes the salary of the mayor. See, also, section next following.

[765—]20. Salaries of members of council in certain cities—Conference committee.—That in any city in this state now or hereafter having a population of over 50,000 inhabitants, each member of the common council, or city council of said city shall receive and be paid as salary the sum of three hundred dollars, per annum, from the treasury of said city, in equal monthly installments, of twenty-five dollars; provided, however, that in any city, the conference committee thereof, or said other committee or body as may have the right by law to recommend to the common council, or city council, the annual tax levy therefor, may include in such recommendation an amount not exceeding twelve hundred dollars per annum, as the salary of each member of the common council, or city council of such city, and when so recommended and included in the tax levy, each member of the common council or city council shall

receive and be paid such amount from the treasury of such city in equal monthly installments as his annual salary. ('07 c. 284 § 1)

Historical.—"An act to provide for and fix the compensation of members of the common council in cities of this state now or hereafter having a population of over 50,000 inhabitants." Approved April 22, 1907.

[765—]21. **Same—Not to apply to certain cities.**—This act shall not include or apply to cities the members of the common council or city council, of which now or hereafter shall receive a greater amount than herein provided as salary or compensation. ('07 c. 284 § 2)

[765—]22. **Salary of chief of police.**—That in all cities of this state now or hereafter having a population of over fifty thousand inhabitants, the board of police commissioners of any such city are hereby authorized and empowered to fix and prescribe the salary and compensation of the chief of police of such city at an amount not to exceed four thousand dollars per annum, and the sum so fixed and determined shall be paid to such officer in equal monthly installments from the treasury of such city. ('07 c. 51 § 1)

Historical.—"An act to provide for fixing the salary of the chief of police in all cities in this state now or hereafter having a population of over 50,000 inhabitants." Approved March 21, 1907.

[765—]23. **Salaries of officers of fire department.**—That in all cities of this state now or hereafter having a population of more than 50,000 inhabitants, the board of fire commissioners or the city council, if there is no board of fire commissioners, of any such city is hereby authorized and empowered to fix and prescribe the salaries and compensation of the chief engineer, first, second and third assistant engineers and district and battalion chiefs of the fire departments and the salary of the superintendent of fire alarm department of any such city. ('07 c. 401 § 1)

Historical.—"An act to provide for the fixing of the salaries of the chief engineer, first, second and third assistant engineers and district and battalion chiefs of the fire department, and of the superintendent of fire alarm telegraph, in all cities in this state, now or hereafter having a population of more than 50,000 inhabitants." Approved April 24, 1907.

[765—]24. **Salary of first assistant commissioner of public works.**—That in all cities of this state now or hereafter having a population of over 50,000 inhabitants, the commissioner of public works of any such city is hereby authorized and empowered to fix and prescribe the salary and compensation of the first assistant commissioner of public works of such city at an amount not to exceed three thousand six hundred dollars per annum and the sum so fixed and determined shall be paid to such officer in equal monthly installments from the treasury of such city. ('07 c. 241 § 1)

Historical.—"An act to provide for fixing the salary of the first assistant commissioner of public works in all cities in this state now or hereafter having population of over 50,000 inhabitants." Approved April 18, 1907.

[765—]25. **Salary of president of workhouse board in cities under home rule charters.**—That hereafter the president of the board of public workhouse directors, or the president or chairman of such other board or body as may have charge and control of the public workhouse of any city in this state now or hereafter having a population of over fifty thousand inhabitants, shall receive for his services, an annual compensation of not to exceed twelve hundred dollars, payable in equal monthly installments, the amount so paid to be fixed by the common council of the city. This act shall apply to cities existing under a charter framed pursuant to section 36 of article 4 of the constitution of the state of Minnesota. ('09 c. 256 § 1)

Historical.—"An act to provide compensation for the president of the board of public workhouse directors, or the president or chairman of such other board

or body as may have charge of the public workhouse in any city in the state of Minnesota now or hereafter having a population of over fifty thousand inhabitants." Approved April 19, 1909.

[765—]26. Maximum expenditure of police department.—That any city in this state, now or hereafter having a population of over 50,000 inhabitants, in addition to all powers now possessed by it, shall have the power and authority, acting by and through its common council, to fix the maximum expenditure each year for the support and maintenance of its police department, and to include the amount so fixed in the current annual tax levy for such city. ('07 c. 301 § 1)

Historical.—"An act to authorize any city in the state of Minnesota, now, or hereafter having a population of over 50,000 inhabitants, to provide necessary funds for the support and maintenance of its police department, and fix the maximum expenditure each year therefor." Approved April 22, 1907.

Section 2 repeals inconsistent acts.

[765—]26a. Pensions for police matrons.—In every city in this state now or hereafter having a population of over 50,000 inhabitants where there is or may be created a police pension fund governed and managed by a police pension board in accordance with the provisions of chapter 159 of the General Laws of 1903, as subsequently amended by H. F. No. 542, 1905, such police pension board are hereby further authorized to make further provisions for creating pensions for disabled and retired police matrons in said cities. ('05 c. 184 § 1)

Historical.—"An act creating pensions for disabled and retired police matrons in cities now or hereafter having a population of 50,000 inhabitants and providing for a fund out of which pensions shall be paid in accordance with chapter 159 of the General Laws of 1903, as subsequently amended by H. F. No. 542, 1905." Approved April 15, 1905.

Laws 1903, c. 159, is not included among the acts of that session repealed by R. L. § 5546. The act was amended by Laws 1905, c. 109.

[765—]26b. Same—Powers of pension board.—That every paid municipal police department now existing or which may hereafter be organized may and are hereby authorized, in addition to the provisions contained in chapter 159 of the General Laws of 1903 as amended by H. F. No. 542, 1905, to provide and permit and allow said police pension board so incorporated or so organized to pay out of and from any funds it may have received from the State of Minnesota or from any other source a service pension, not exceeding, however, the sum of \$25 per month to each police matron who shall have arrived at the age of 45 years or more and shall have done active service as police matron for a period of ten years or more in the police department of such city in which such pension board shall be so organized or who having been disabled physically or mentally while in the performance of her duties as such police matron so as to render necessary her retirement from active service as police matron may be placed upon the pension list of said association and shall receive such pension as above provided as though the same were provided for in the articles of incorporation or constitution and by-laws of said association. ('05 c. 184 § 2)

[765—]26c. Same—When not payable.—The pension authorized by this act shall not be paid to any police matron while drawing salary in any amount from said police department. ('05 c. 184 § 3)

[765—]26d. Same—Laws applicable.—Each and every of the provisions of chapter 159 of the Laws of 1903 as amended by H. F. No. 542, 1905, are hereby made subject to the provisions of this act for the purpose of allowing all police matrons in cities of 50,000 inhabitants and over to obtain the same privileges and benefits as disabled and retired policemen in such cities. ('05 c. 184 § 4)

[765—]27. Maximum expenditure for fire department.—That any city in this state now or hereafter having a population of over

fifty thousand inhabitants; in addition to all powers now possessed by it, shall have the power and authority, acting by and through its common council, to fix the maximum expenditure each year for the support and maintenance of its fire department, and to include the amount so fixed in the current annual tax levy for such city. ('07 c. 286 § 1)

Historical.—"An act to authorize any city in the State of Minnesota now or hereafter having a population of over fifty thousand inhabitants to provide necessary funds for the support and maintenance of its fire department, and to fix the maximum expenditure each year thereof." Approved April 22, 1907.

Section 2 repeals inconsistent acts.

[765—]28. **Maximum expenditures of engineering and building inspection departments.**—That any city in the State now or hereafter having a population of over fifty thousand inhabitants, in addition to all powers now possessed by it, shall have the power and authority, acting by and through its common council, to fix the maximum expenditures each year for the support and maintenance of its engineering and building inspection departments and to include the amount so fixed in the current annual tax levy for such city. ('07 c. 194 § 1)

Historical.—"An act to authorize any city in the State of Minnesota now or hereafter having a population of over fifty thousand inhabitants to provide necessary funds for the support and maintenance of its engineering and building inspection departments and fix the maximum expenditure each year therefor." Approved April 15, 1907.

Section 2 repeals inconsistent acts.

[765—]29. **"Board" and "department" defined.**—The terms "board" or "department," as used in this act, shall mean and embrace board of education, library board, park board, board of charities and corrections and all other boards or departments of every kind and nature expending public funds for the use and benefit of any such city. ('09 c. 374 § 1)

Historical.—"An act compelling every board and department of every city having a city comptroller and having now or hereafter a population of fifty thousand or more inhabitants, to furnish such city comptroller with the necessary data to enable him to properly audit and adjust all matters relating to the expenditure of public funds of such city." Approved April 22, 1909.

Section 4 repeals inconsistent acts.

[765—]30. **Same—Statements, etc., to comptroller—Contracts.**—It shall be the duty of every such board or department on the first day of each calendar month and at such other times as the city comptroller, in writing, may demand, including such further information as the city comptroller may demand, to furnish such city comptroller with an accurate and complete statement, properly attested by the proper officer, of all its acts, including all the names, addresses, kind of labor and compensation to be paid to each of its employes and duration thereof, and whenever any such board or department expends or is about to expend, money for the purchase of any lands, goods, materials, labor, supplies or anything of value, and enters into a written contract therefor, such board or department shall immediately furnish such city comptroller with a certified duplicate copy thereof; and no contract shall be valid unless countersigned by said city comptroller. ('09 c. 374 § 2)

[765—]31. **Same—Access to books, papers, etc.**—For the purpose of fully complying with this act, the city comptroller or any person such city comptroller may designate, shall have full and complete access to all books, papers, documents, statements or accounts on file or of record with any of such boards or departments, at any and all times and any officer, agent, employe or other person in charge of any such board or department, refusing the city comptroller, full and complete access to all such books, papers, documents, statements or accounts shall be guilty of a misdemeanor. ('09 c. 374 § 3)

[765—]32. Gas, electric and water plants in cities not under home rule charters—Eminent Domain.—Any city now or hereafter having a population greater than fifty thousand inhabitants, excepting cities operating under home rule charters framed pursuant to section 36, article 4, of the constitution of Minnesota, is hereby authorized to acquire plants for furnishing gas, electricity, water, or either, any or all thereof, for municipal purposes, as well as for the use of the inhabitants of the city, and for that purpose may exercise the power of eminent domain in pursuance of chapter 41, Revised Laws of 1905, and the acts amendatory thereof and supplementary thereto, and thereby may take any and all property necessary or convenient for acquiring and establishing such plants and for adding thereto from time to time, including lands, manufacturing plants, pumping stations, power stations, pipe lines, conduits, pole and wire lines, reservoirs, filter and purification plants, storage plants, transforming and converting plants, and any and all property necessary or convenient, wherever situate, within or without the corporate limits, or of whatever character, and whether devoted to public use or not. ('09 c. 372 § 1)

Historical.—“An act authorizing cities now or hereafter having a population exceeding fifty thousand inhabitants, excepting cities operating under home rule charters, framed pursuant to section 36, article 4, of the Constitution of Minnesota, to acquire gas, electric and water plants and property therefor, by the exercise of eminent domain, and to operate the same.” Approved April 22, 1909.

[765—]33. Same—Condemnation, how authorized and conducted.—The proceedings provided by said chapter 41 shall be instituted and conducted under the direction and control of the city council, which shall be authorized by resolution or ordinance passed by a vote of two-thirds of all the members elect of said city council. Judgment shall be entered upon the report or award of the commissioners or in case of appeal, upon the verdict, but only after the direction by the city council by such two-thirds vote of the council of the city to move for such judgment. Such motion may be made at any time within four months of the filing of the award of commissioners, or in case of appeal, at any time within four months after verdict, or such additional time as the court may, by order after notice, allow for the purpose. The said judgment shall not be entered nor shall any of the bonds herein provided for be issued until such bonds shall have been authorized by a vote of four-sevenths of all the legal voters of said city registered and voting at a special election of such voters, duly called for that purpose, and said city council is hereby empowered and directed to call and hold such special election. The judgment shall fix and determine the amount to be paid, and shall vest in the city all the right, title and estate of the parties to the action in and to all the property taken. The faith and credit of the city shall be pledged to the payment of such judgment and interest, and the city may immediately enter upon and take the property, and the court may issue and enforce execution or any other writ, process or order necessary to put the city into complete possession and enjoyment of the property. Such judgment and pledge of payment shall be deemed a complete and effectual taking and a complete security for payment. ('09 c. 372 § 2)

[765—]34. Same—Bonds authorized—Operation of plant.—The city, through its city council, may, notwithstanding any limitations contained in the charter of such city, or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city, issue and sell the negotiable bonds of the city for the payment of such judgment, bearing interest at a rate not exceeding five per cent per annum and maturing in thirty years after

date, and sell such bonds to the highest bidder, after a publication of notice once each week for three successive weeks in some newspaper of the city. Such bonds shall be issued in such denominations as the city council may determine, and shall not be sold for less than par, shall bear the seal of the city, and shall be executed by the mayor, city clerk and city comptroller in the name of the city. The city comptroller shall keep an accurate register of the bonds. The bonds may be either in the ordinary coupon form, or may be issued as registered bonds, transferable in the usual manner. The faith and credit of the city shall be pledged for the payment of the principal and interest of such bonds. The city may discontinue the proceedings at any time before entry of judgment. The city council may, after acquiring any such property, operate the same for the purposes aforesaid, and may issue and sell bonds of the city in the manner and on the terms prescribed in this section and upon the same conditions, to the par value of one hundred thousand dollars or less as a working capital for the operation of the plant. ('09 c. 372 § 3)

[765—]35. Same—Service rates.—Any such city is hereby authorized and required, in event of the operation of any such plant, to establish and collect rates for service sufficient to pay the interest upon such bonds, maintain such plant in perfect condition, and to operate the same at a high standard of efficiency. The substantial performance of the requirements of this section is hereby declared to be part of the contract with the holder of any bonds of the city, that may hereafter be issued hereunder and shall be kept inviolate. ('09 c. 372 § 4)

[765—]36. Condemnation of land for public buildings.—That hereafter any city in this state now or hereafter having a population of over fifty thousand inhabitants shall have the right, power and authority to condemn lands under the right of eminent domain for sites and grounds for public school buildings, and for all other municipal or public buildings for such cities, or for any of the departments of its government, and such power and authority shall be exercised under and pursuant to the terms and provisions of chapter 41 of the Revised Laws of Minnesota for the year 1905 and acts amendatory thereof; provided, however, that any such city shall have the right, upon the filing of the award of the commissioners provided for in said chapter 41, and upon giving the notice therein required of the filing of such award, to enter upon and appropriate the lands so condemned, without the giving of any bond, but in case of such entry and appropriation, such city shall be bound absolutely to pay all damages awarded, either by said commissioners or by the court upon appeal therefrom, together with all costs and expenses adjudged against it therein, within the time specified in said chapter 41. In case any such city shall appeal from the award of commissioners appointed pursuant to any such condemnation proceedings, such city shall not be required to give or file any appeal bond therein. ('07 c. 291 § 1)

Historical.—“An act to authorize all cities in this state now or hereafter having a population of over 50,000 inhabitants to condemn lands under the right of eminent domain, for sites and grounds for public school buildings, and for all other municipal or public buildings for such cities, or for any of the departments of its government.” Approved April 22, 1907.

[765—]37. Acquisition of lands for hospital—Bonds.—That any city in this state now or hereafter having a population of over fifty thousand inhabitants, in which there is a city and county public hospital, may acquire such additional lands as may be necessary therefor either by purchase or by condemnation thereof in the same manner as lands are condemned for the opening and widening of streets, and may pay the cost thereof either by public taxation

or by issuing and selling the bonds of such city therefor; anything in the charter of said city or in any law of this state which may prohibit the issue of any bonds in excess of any specified percentage of taxable property in such city to the contrary notwithstanding; provided, however, that the aggregate amount of bonds issued for such purpose shall not be in excess of the sum of twenty-five thousand dollars, par value, and shall not bear a greater rate of interest than four per cent per annum. ('05 c. 139 § 1)

Historical.—"An act to authorize cities in this state now or hereafter having a population of over fifty thousand inhabitants to acquire lands for public hospital purposes, either by purchase or by condemnation, and to pay the cost thereof by issuing the bonds of such city." Approved April 11, 1905.

[765—]38. Condemnation of land covered by water for slips.—Each city in this state having at any time a population of over 50,000, according to the census then last taken, is hereby empowered to acquire by proceedings in condemnation, under the right of eminent domain, any land or lands covered with water or an easement therein, connecting with or adjacent to public navigable waters, other than rivers, within or adjacent to such city, where-soever situated within the limits of such city, which shall be declared by the city council by resolution necessary to be taken, damaged, injured or destroyed for the purpose of laying out, opening, making, deepening, widening or otherwise improving a slip or other waterway into or connecting with such public navigable waters. ('05 c. 213 § 1)

Historical.—"An act to authorize cities having a population of more than fifty thousand to acquire by condemnation proceedings, under the right of eminent domain, land or lands covered by water, or an easement therein for or to be used as slips or waterways open or to be opened as public highways into or connecting with public navigable waters, in this state, other than rivers within or adjacent to such city, and authorizing the assessment of benefits resulting therefrom." Approved April 17, 1905.

[765—]39. Same—To be held for public water highway.—Whenever any land or lands covered with water, or an easement therein shall be acquired by any city, pursuant to the provisions of this act, such land shall thereafter be held as and for a public water highway for travel by and the accommodations and passage of boats, steamships, vessels and water craft of all kinds. ('05 c. 213 § 2)

[765—]40. Same—Proceedings, how conducted.—The land or lands covered with water or an easement therein specified in section one [765—38] of this act may be acquired by proceedings to be conducted by the city council in the manner provided by chapter 194, General Laws of Minnesota for the year 1903, enabling municipalities to establish and acquire a building line easement along streets, highways, parks and parkways, and the city council in any such city shall, under this act, exercise all the powers and perform all the duties imposed in said chapter 194, General Laws of Minnesota for the year 1903, on the "governing body" mentioned in said chapter. ('05 c. 213 § 3)

[765—]41. Same—Land or easement to vest in city.—Upon the conclusion of the proceedings and the payment of the awards the several tracts of land shall be deemed to be taken and appropriated for the purposes of this act, and such land or the easement therein for the purposes aforesaid shall vest absolutely in the city in which the lands are situate. ('05 c. 213 § 4)

[765—]42. Condemnation of land for harbors, wharves, etc., in cities under home rule charters.—That hereafter any city in this state now or hereafter having a population of over fifty thousand inhabitants, shall have the right, power and authority to condemn lands under the right of eminent domain, for harbors, wharves,

boat-landings and such canals and approaches thereto as may be required, and shall have the right, power and authority to levy taxes for the purpose of raising moneys required for the payment of damages and other expenses arising in or out of such condemnation proceedings; such power and authority to condemn land shall be exercised under and pursuant to the terms and provisions of chapter 41, of the Revised Laws of 1905, and acts amendatory thereof. Provided, however, that any such city shall have the right, upon the filing the award of the commissioners, provided for in said chapter 41, and upon giving the notice therein required of the filing of such award, to enter upon and appropriate the land so condemned, without the giving of any bond, but in case of such entry and appropriation, such city shall be bound absolutely to pay all damages awarded, either by said commissioners or by the court upon appeal therefrom, together with all costs and expenses adjudged against it therein, within the time specified in said chapter 41. In case any such city shall appeal from the award of the commissioners appointed pursuant to such condemnation proceedings, such city shall not be required to give or file any appeal bond therein. This act shall apply to cities now having a home rule charter adopted under and pursuant to section 36 of article four of the constitution of the state of Minnesota. ('09 c. 327 § 1)

Historical.—"An act to authorize all cities in this state now or hereafter having a population of over fifty thousand inhabitants, to condemn lands for harbors, wharves, boat landings and such canals and approaches thereto as may be required, therefor, and to levy taxes therefor." Approved April 19, 1909.

[765—]43. Roads, boulevards, parkways, etc., outside corporate limits in cities under home rule charters.—Any city of the state of Minnesota, now or hereafter having more than fifty thousand inhabitants is hereby authorized and empowered to extend, lay out, open, build, maintain and repair any road, street, avenue, boulevard, parkway or other public highway which may be authorized by ordinance of such city passed by a three-fourths vote of all the members of the city council, or other governing body of said city, whether such road, street, avenue, boulevard, avenue, parkway or other public highway be wholly within or partly within and partly without, or wholly without outside of, or beyond the corporate limits of said city. ('09 c. 485 § 1)

Historical.—"An act to authorize any city of the state of Minnesota, now or hereafter having more than fifty thousand inhabitants, to lay out, open, build, maintain and repair roads, streets, avenues, boulevards, parkways or other public highways outside the corporate limits of such city, and to acquire property for such purpose outside said corporate limits, by gift, devise, purchase or condemnation." Approved April 23, 1909.

[765—]44. Same—Property, how acquired.—Any city mentioned in section 1 of this chapter may acquire by gift, devise, purchase, condemnation or other means any property necessary or convenient or desirable for the purpose of extending, laying out, opening, building, maintaining and repairing any road, street, avenue, boulevard, parkway or other public highway authorized in section 1 [765—50] of this chapter. ('09 c. 485 § 2)

[765—]45. Same—Condemnation, how conducted, etc.—Whenever the common council or other governing body of any such city shall by ordinance as aforesaid, declare that it is necessary or convenient or desirable to acquire any real property for any such public use, it shall describe such property as nearly as may be convenient in such ordinance, and state the use to which it is proposed to devote such property, and direct the city attorney to take the appropriate proceedings in the proper course for the condemnation of the same, and direct the city engineer to make and present to the common council, or other governing body, such plat and survey of said real estate as will show the property to be

taken, and the owner of each parcel thereof according to the records in the office of the register of deeds of such county, and to accompany such plat and survey with such report as will fully explain the situation of such property, and such report may contain any other pertinent statement which the engineer deems best. The common council, or other governing body of such city may cause such plat and survey to be modified or amended as it may deem proper, and when satisfied with said plat and survey may adopt the same and direct a copy of such plat and such ordinance to be filed in the office of the register of deeds of the county in which such land is situate. Such copy of the plat and ordinance when so filed shall operate as notice of the pendency of an action by said city against each piece or parcel of land therein described for the condemnation thereof. The city attorney shall thereupon apply to the district court in and for such county for the appointment of three commissioners to appraise the property so to be taken and the damage for such taking. He shall give a notice of such application in which he shall specify the time and place of application, and in a general way describe the property proposed to be taken, and shall name the owners of such property so far as known to him, but failure to name all or any of the owners correctly shall in no wise affect the proceedings. Such notice shall be served by one publication of the same in the official paper of the city at least twenty days before the date fixed for such application, and a copy of such notice shall at least twenty days before the date fixed for such application be served upon any person or corporation in possession of any parcel therein described, and upon each person or corporation who appears by the records in the office of the register of deeds of the county in which such city is situated, to be interested in any of said parcels, and who can be found in such county, in the same manner as a summons is served in a civil action. At the time and place named in said notice, or at a duly adjourned time and place, upon proof of the publication of said notice as aforesaid, the court shall appoint three commissioners, all of whom shall be freeholders and electors of the county in which said city is situate, who shall have cognizance of all cases named in such application, and shall have power to appraise the value of all property therein described, and the damages for the taking of the same. The city attorney shall forthwith by written notice, notify said commissioners personally of their appointment, and request them to attend at his office on or before a day fixed by him not less than two days after the service of such notice, to qualify and enter upon their duties, and if any commissioner shall refuse or neglect to attend as aforesaid, the mayor of the city shall in writing appoint one or more commissioners in the stead of the said absentees, and shall file such appointment with the clerk of the court which appointed such original commissioners. Said commissioners shall thereupon, and before entering upon the duties of their office, severally take and subscribe an oath to the effect that they are freeholders and electors of the county in question and in no wise interested in any property to be affected by said proceedings, and that they will faithfully perform their duty as such commissioners without partiality and to the best of their knowledge and ability, which oath shall be filed in the office of the clerk of said court. The commissioners shall thereupon give at least twenty days' notice, by one publication in the official paper of the city, of the time and place where they will attend to make an assessment of damages in said proceedings. Such meeting may be adjourned from time to time without further publication of notice. It shall be the duty of the city attorney to serve a copy of such notice at least four days before the date named in such

notice upon all persons or corporation over whom the court shall acquire jurisdiction, and who shall serve notice upon the city attorney of their appearance in such proceedings. Such notice shall be served in the manner provided by statute for the service of notices and other papers in civil actions, and may be made upon the party or his attorney. At the time and place named in said notice, or at an adjourned time and place, the said commissioners, or a majority of them, after viewing the property involved and hearing the evidence offered, shall make through an impartial appraiser and award of compensation and damage to be paid for each tract or parcel of land to be taken or damaged, but if the remainder of any parcel or piece of property of which a part only is to be taken or damaged shall be benefited by such proposed improvement, then the commissioners in considering and awarding such compensation and damages, shall consider, determine and offset the proportionate benefits which will accrue to the remainder of such parcel not so taken and belonging to the same owner as does the part taken, and shall award only the excess, if any, of the compensation or damages over or above the benefits. Such report shall be in writing, signed by the commissioners, or a majority of them, and filed with the clerk of the court as soon as completed. Upon the filing of such report, the commissioners shall give notice thereof by one publication in the official paper of the city. Such published report shall contain a description of the several parcels of land taken or damaged for such public use and the respective awards therefor. A copy of such notice shall within ten days thereafter be served upon the city attorney and upon all parties who have appeared in said proceedings, and such notice shall be served in the manner provided by statute for the service of notices and other papers in civil actions, and may be made upon the party or his attorney. Any person or corporation interested in any property described in said report or the city in question may appeal from any award therein at any time within thirty days after the publication of said notice by filing with the clerk of the district court which appointed said commissioners notice of appeal signed by the party or his attorney taking the same, and describing the party the property in which he is interested and the award to which he objects. An appeal made from any award shall in no wise affect an award not appealed from. The clerk shall enter the appeal as an action in said court; there shall be no pleadings therein and such appeal shall be tried as other causes originally commenced in said court are tried and judgment rendered therein. From such determination an appeal may be taken to the supreme court of the state. After said commissioners shall file said report and publish said notice thereof as aforesaid the court shall allow the commissioners such reasonable compensation for their services as it shall deem best, which shall be paid by the city seeking to condemn said property as aforesaid. Whenever an award of damages shall be made and filed as aforesaid, and not appealed from, in any proceedings for the taking of property, under this act, or whenever the court shall render final judgment in any appeal from any such award, the rights of all parties shall be finally fixed and determined thereby and the same shall constitute a lawful and sufficient condemnation and appropriation to the public use of the land for which damages are so awarded and every right, title and interest therein and thereto, and every other lien thereon shall be thereby directed and such city shall become vested with the title to, and become the owner of, the property taken or condemned absolutely for all the purposes for which said city may ever use the same; and such city shall be bound to, and shall within one year of the time of such final determination pay the amount of such award with

interest thereon at the rate of five per cent per annum from the date of the final award or judgment of the court, as the case may be, and if not so paid judgment therefor may be had against the city. In case there shall be any doubt as to who is entitled to such compensation or damages, or any part thereof as may be awarded, the amount so awarded, and in doubt or dispute shall be by the common council or other governing body of such city appropriated and set apart in the city treasury for whoever shall establish his right thereto by some judicial proceedings. Before payment of any such award the owner of such property, or the claimant of the award, shall furnish satisfactory evidence of his right to such award. Any such city may by ordinance passed by a three-fourths vote of all the members of its common council or other governing body; at any time within twenty days after any commissioners appointed by the court hereunder shall file their report with the clerk of said court, or in case of an appeal within twenty days after final determination thereof, abandon such proceedings and shall thereupon pay the costs thereof. Upon the completion of any proceedings under this act for the acquisition of any property by any such city, the mayor or other executive head of such city shall cause an accurate description of the property so taken to be prepared, together with a statement of the amount of damages, if any, awarded or paid, or to be paid to each owner thereof and shall sign and acknowledge the same as such mayor or executive head, and cause the same to be recorded in the office of the register of deeds of the county in which such property is situated, and it is hereby made the duty of such register of deeds, upon being paid his statutory fees, to record such statement in some appropriate book in his office. Such record or duly certified copy thereof shall be prima facie evidence that the city in question is the owner of the property described therein by good and perfect title. ('09 c. 485 § 3)

[765—]46. Same—To what cities applicable—Police protection.—This act shall be applicable to any city of the first class existing under a charter framed under and pursuant to section 36, article 4 of the constitution of the state of Minnesota. Any city acquiring any property under this act is empowered to afford police protection to any and every such property. ('09 c. 485 § 4)

[765—]47. Diversion of unnavigable streams—Raising waters of lakes.—Any city of this state now or hereafter having a population of more than 50,000 according to the last preceding state or national census, may, if in the judgment of its city council, the public health or welfare of its citizens will be promoted thereby, divert any unnavigable stream, flowing wholly or partly within the corporate limits, from its natural bed to an artificial channel or to another water course. The diversion may take place at any feasible or desirable point within or without the corporate limits, and the new channel may be created within or without or partly within and partly without the corporate limits. For the purpose of controlling and regulating the flow of such stream in its new channel, the city may, by the erecting of dams or other suitable means, raise the waters of any lake or lakes from which the stream may flow, or through which the new channel may flow, and may control and regulate the discharge from such lake or lakes, and may straighten, enlarge and make such changes and improvements in the channels as may be necessary for such purposes. Such new channels may, where necessary, cross any highway or railway; in which case suitable bridges shall be provided. ('05 c. 18 § 1)

Historical.—"An act to enable cities now or hereafter having a population exceeding 50,000 to divert the course of streams and control the flow thereof." Approved February 28, 1905.

[765—]48. **Same—Ordinance — Survey and map.**—The city council shall by ordinance first adopt and file with the city clerk a survey and map showing the point at which it is proposed to divert the stream, the route of the new channel, the sites of dams and other controlling works, the lands proposed to be taken for right of way and for flowage purposes, the levels to which it is proposed to raise and between which it is proposed to maintain the waters of any lake, a profile of the route and of the water surface, the cross-section of the proposed new channel, the enlargement, if any, of any existing channel, the bridges, tunnels, culverts to be built, and in general, the entire extent and scope of the improvement as nearly as may be. ('05 c. 18 § 2)

[765—]49. **Same—Lands, how acquired.**—The city council may acquire in the name of the city by grant, dedication, purchase or devise the lands and the rights necessary to carry out such improvements. ('05 c. 18 § 3)

[765—]50. **Same—Condemnation — Special assessments.**—The power of eminent domain and the power to levy special assessments for benefits are hereby delegated to such cities for the purposes of this act, to acquire the lands and rights needed or any of them, to be exercised as follows: ('05 c. 18 § 4)

[765—]51. **Same—Ordinance — Appraisers.**—The city council shall by ordinance determine and declare as nearly as may be, the cost of such improvements, exclusive of damages to property, and shall appoint five appraisers, who shall be disinterested free-holders and qualified voters of the county, and none of whom shall be residents of the town or ward or wards of the city in which the property so designated is situated, to view the premises and appraise the damages which may be occasioned by the taking of private property or otherwise in making such improvement, and to assess special benefits resulting therefrom. Said appraisers shall be notified as soon as practicable by the city clerk to attend at a time fixed by him, for the purpose of qualifying and entering upon their duties. Whenever a vacancy may occur among said appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the city council. ('05 c. 18 § 5)

[765—]52. **Same—Oath.**—The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the city council. ('05 c. 18 § 6)

[765—]53. **Same—Notice of meeting for appraisal, etc.**—The appraisers shall give notice of their meeting by publication in the official newspaper of the city, once a week for six consecutive weeks, which last publication shall be at least ten days before the day of such meeting, which notice shall name the stream to be diverted, the point of diversion, the general course of the new channel and the height to which it is proposed to raise or maintain any lake, the location of proposed bridges, culverts or tunnels, the estimated cost of construction, and shall contain a description of the lands designated by the city council to be taken for right of way and for flowage purposes, and give notice that a plan of the improvement has been filed in the office of the city clerk, and that said appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages for property to be taken, or which may be damaged by the diversion of water or otherwise by such improvement, and to assess benefits in the manner hereinafter specified. If any portion of such stream or of the lands to be taken is outside of the county containing such city, then the notice shall also be published

for a like time in some newspaper in such outside county. ('05 c. 18 § 7)

[765—]54. Same—Mailing notices.—A copy of all subsequent notices relating to the proceeding which are required to be published, shall be mailed by the city clerk immediately after the first publication thereof to such persons as shall have appeared in said proceedings and requested in writing that such notices be mailed to them. ('05 c. 18 § 8)

[765—]55. Same—Meeting of appraisers—Damages and benefits.—At the time and place mentioned in the notice, the said appraisers shall meet and thence proceed to view the premises, and shall hear any evidence or proof offered by the parties interested and may adjourn from time to time for the purpose aforesaid. When their view and hearing shall be concluded, they shall determine the amount of damages, if any, suffered by each piece or parcel of land affected by the improvement. They shall also determine the amount of special benefits, if any, occurring by reason of diversion of water, drainage, or otherwise, to each piece or parcel of land wherever situate and whether contiguous to the improvement or not. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the total assessment for benefits shall not be greater than the aggregate net award of damages added to the estimated cost of construction; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual special benefits after deducting the damages, if any. ('05 c. 18 § 9)

[765—]56. Same—Buildings.—If there be any buildings standing, in whole or in part, upon any parcel of the land to be taken, the said appraisers shall, in such case, determine the amount of damages which should be paid to the owner or owners thereof, in case such building, or so much as may be necessary, should be taken, and shall also appraise and determine the amount of damages to be paid such owner or owners, in case he, or they, shall elect to remove such buildings. ('05 c. 18 § 10)

[765—]57. Same—Different owners or interests.—If the land and buildings belong to different persons or if the land be subject to lease, mortgage or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such person, or interests, respectively, may be awarded to them separately by the appraisers. Provided, that neither such award of the appraisers, nor the confirmation thereof by the city council, shall be deemed to require the payment of such damages to the person or persons named in such award, in case it shall transpire that such person or persons are not entitled to receive the same. ('05 c. 18 § 11)

[765—]58. Same—Report.—The said appraisers having ascertained and appraised the damages and assessed the benefits as aforesaid, shall make and file with the city clerk, a written report of their action in the premises, embracing a schedule and appraisal of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them, and also a statement of the costs of the proceeding. ('05 c. 18 § 12)

[765—]59. Same—Notice of appraisal — Buildings — Confirmation or annulment.—Upon such report being filed, the city clerk shall give notice that such appraisal has been returned, and that the same will be considered by the city council at a meeting thereof to be named in the notice, which notice shall contain

the schedule of damages awarded and benefits assessed, and shall be published in the official newspaper of said city, once a week for two consecutive weeks, and the last publication shall be at least ten days before such meeting. Any person interested in any building standing in whole or in part upon any land required to be taken by such improvement, shall on or before the time specified for said meeting in such notice, notify the city council in writing of his election to remove such building, if he so elect. The city council, upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisalment and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified, provided that said city council shall not have the power to reduce the amount of any award, nor increase any assessment. In case the appraisalment and assessment is annulled, the city council may thereupon appoint new appraisers, who shall proceed in like manner as in case of the first appraisalment, and upon the coming in of their report, the city council shall proceed in a like manner and with the same powers as in the case of the first appraisalment. ('05 c. 18 § 13)

[765—]60. Same—Award—Payment—Effect of appeal—Interest.—If not annulled or set aside, such award shall be final, and shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The award shall be paid to the persons entitled thereto, or shall be deposited and set apart in the treasury of the city for the use of the persons entitled thereto, within six months after the confirmation of the appraisalment and award. But in case any appeal or appeals shall be taken from the order confirming said appraisalment and assessment as hereinafter provided, then the time for payment of said awards shall be extended until and including sixty days after the final determination of all appeals taken in the proceedings, and in case of any change in the awards or assessment upon appeal, the city council may, by resolution duly adopted, at any time within sixty days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six per centum per annum from the time of the filing of the original appraisers' report, and all subsequent awards and awards upon appeals shall be made as of the day and date of filing of such original reports. ('05 c. 18 § 14)

[765—]61. Same—Title vests, when—Deposit of award.—Upon the conclusion of the proceedings and the payment of the awards, the several tracts of land shall be deemed to be taken and appropriated for the purposes of this act, and the title thereto shall vest in the city. In case the city council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the city council shall, and in any and every case the city council may in its discretion deposit the amount of damages with the district court of the county in which such city is situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested, and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid

accordingly. Any such deposit shall have the same effect as the payment to the proper persons. ('05 c. 18 § 15)

[765—]62. Same—Removal of buildings.—In case any owner or owners of buildings, as aforesaid, shall have elected to remove his or their buildings, he or they, shall remove them within thirty days from the confirmation of said report, or within such further time as the city council may allow for the purpose, and shall be entitled to the payment of the amount of damages awarded in such case, in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected) to remove the same within the time above specified, such buildings, or so much thereof as may be necessary, upon paying or depositing the damages awarded for such taking in manner aforesaid, may be taken and appropriated, sold or disposed of as the said city council shall elect. ('05 c. 18 § 16)

[765—]63. Same—Appeal — Objections — Notice — Record—Questions on appeal.—Any person whose property is proposed to be taken or interfered with or assessed under any provision of this act, or who claims to be damaged by the improvement, and who deems that there is any irregularity in the proceedings of said city council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of, or interference with his property, or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the city council, file with the city clerk in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property in which he is interested, affected by such proceedings and his interest therein, and if, notwithstanding such objections the said city council shall confirm the award or assessment, such persons so objecting shall have the right to appeal from such order of confirmation of the city council to the district court of the county in which said city is situate, within twenty days after such order. Such appeal shall be made by serving a written notice of appeal upon the city clerk, which shall specify the property of the appellant affected by such award or improvement, and refer to the objection filed as aforesaid, thereupon said city clerk at the expense of the appellant, shall make out and transmit to the clerk of the district court a copy of the record of the entire proceedings and of the award of the appraisers as confirmed by the city council, and of the order of the city council confirming the same, and of the objections filed by the appellant as aforesaid, and of the notice of appeal, all certified by said city clerk to be true copies, within ten days after the taking of such appeal. But if more than one appeal be taken in the same proceeding, it shall not be necessary that the city clerk in appeals subsequent to the first shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether said appraisers had jurisdiction to take action in the premises. ('05 c. 18 § 17)

[765—]64. Same—Hearing—Appraisers—Report—Buildings — Award—Recommitment—Costs—Appeal to supreme court.—The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court

shall be to confirm or annul the proceedings, only so far as the said proceedings affect the property of the appellant proposed to be taken or damaged or assessed, and described in said written objection. In case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested freeholders, residents of said county, appraisers, to reappraise said damages, and reassess benefits as to the property of appellant. The parties to such appeal shall be heard by said court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers, they shall be sworn to the faithful discharge of their duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs purtenant to the question of the amount of damages or benefits, and proceed in all other material respects as are in this act provided for the government of appraisers appointed by said city council. They shall, after the hearing and view of the premises, make a report to the said court of their award of damages and assessments of benefits in respect to the property of such appellant. The appellant shall within five days of notice of filing the award file his written election to remove the buildings if he so elect. Such election shall not affect his right to a review. The award shall be final unless set aside by the court. The motion to set aside shall be made within fifteen days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers, as it shall deem best; said court shall allow to said appraisers a reasonable compensation for their services, and make such awards of costs on such appeal, including the compensation of such appraisers, as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in said proceedings. ('05 c. 18 § 18)

[765—]65. Time of payment.—In case of any appeal the time for making payment of awards shall be extended as to all tracts embraced in the proceeding to sixty days after final determination of all appeals. ('05 c. 18 § 19)

[765—]66. Same—Notice of pendency—Persons affected.—The notice prescribed in section 7 [765—53] shall be sufficient to charge all persons whose rights or interests may be affected by the diversion of such waters, but whose lands are not otherwise taken, with notice of the pendency of the proceeding, and all such persons may present to the appraisers evidence of the damages which they will suffer, and the appraisers shall determine and award such damages as they may find, particularly specifying in their award the location and the nature of such damages, and all persons failing to present their claims for damages arising from the diversion of waters, shall be concluded by the proceeding hereunder, whether any award of damages is made to them or not, and shall be barred from claiming damages afterwards in any other form of action or proceeding. ('05 c. 18 § 20)

[765—]67. Same—Award and assessment, how certified—Assessment, how enforced.—Upon the final determination of all appeals in such proceeding, the city clerk shall transmit to the auditor of the county or counties in which the respective lands lie a copy by him duly certified of the awards and assessment of the appraisers as confirmed by the city council; and the clerk of the district court shall, in like manner, certify the award and assess-

ment as finally made upon all appeals; and the county auditors shall include such assessments of benefits against each tract of land assessed, with and as a part of the taxes upon such respective tracts of land in the next annual list of taxes for general, state, county and other purposes, and the same proceedings shall be had for the collection and enforcement thereof, as for such general taxes, including like penalties in case of non-payment, and including also proceedings for the collection and enforcement of delinquent taxes. Whenever any of such assessments are collected, they shall be credited to the city conducting such proceedings, and paid over and accounted for in like manner as other taxes. ('05 c. 18 § 21)

[765—]68. Same—Duty of city.—It shall be the duty of such city to proceed with all reasonable dispatch to complete such improvements, unless the proceedings are set aside by the city council as hereinbefore provided. ('05 c. 18 § 22)

[765—]69. Same—Powers and duties of council—Penalties.—The city council shall have power and it shall be its duty after the construction, of such works to maintain the same and to prevent injury or obstruction to the channel or works and contamination of the waters. And for such purposes the city council may enact suitable ordinances and prescribe penalties for their violation, not exceeding a fine of one hundred dollars for each offense, or confinement in the city workhouse not exceeding ninety days. The municipal court of the city shall have jurisdiction of such offenses. ('05 c. 18 § 23)

[765—]70. Rate of interest on assessment certificates.—That all certificates of sale hereafter issued by the proper authorities of any city of the State of Minnesota now or hereafter having a population of over fifty thousand inhabitants, upon a sale of real property for any assessment for local improvement, shall bear the same rate of interest as was provided by law in such case previous to the enactment of said chapter 205 of the Laws of Minnesota for the year 1905. ('07 c. 132 § 2)

Historical.—“An act to repeal chapter 205 of the Laws of Minnesota for the year 1905, approved April 17, 1905, and to regulate the rate of interest to be charged upon certificates of sale of real property for assessments for local improvements, in cities now or hereafter having a population of over fifty thousand inhabitants.” Approved April 9, 1907.

By section 1 of said act Laws 1905, c. 205, providing for interest at 8 per cent., except where a lower rate was then provided by law, is repealed.

[765—]71. Unredeemed assessment certificates — Sale.—That any city in this state now or hereafter having a population of over fifty thousand inhabitants, now or hereafter holding or owning any sale certificates issued under and by virtue of any local improvement assessment, made by the proper authorities of such city, upon which the time for redemption has expired, may sell and dispose of the same or any part thereof and all interest acquired by such city thereunder in the lands therein described. ('05 c. 269 § 1)

Historical.—“An act to authorize cities in this state now or hereafter having a population of over fifty thousand inhabitants to sell and dispose of unredeemed local improvement assessment certificates and the interest acquired by such cities in the lands described therein.” Approved April 18, 1905.

[765—]72. Same—Sale, how made.—Such sale shall be made by the treasurer of such city publishing a notice in the official paper of such city once in each week for three successive weeks that sealed proposals will be received therefor, the last publication to be at least ten days before the date set for receiving such proposals. The notice shall specify the date and the amount of each certificate, together with a description of the lands described therein, and any bidder may include in his proposal any one or more of such certificates. Any proposals received thereunder by such treasurer

shall be reported by him to the next regular meeting of the common council of such city, and if such bids or proposals or any of them are accepted and approved by the common council of such city, the proper city officers shall thereupon execute and deliver to such bidder all necessary assignments and deeds as may be necessary to transfer to said bidder all the right, title and interest in and to the certificates awarded to such bidder, and all lien, right, title and interest of the city in and to the lands described therein, held or acquired by the city, under and by virtue of such certificate, upon payment to the city treasurer of the purchase price designated in such bid or proposal. ('05 c. 269 § 2)

[765—]73. **Compensation for land condemned for parks.**—That when any city in this state now or hereafter having a population of over fifty thousand inhabitants shall cause to be condemned any land for public parks or parkway purposes, such city shall thereupon cause to be paid to the owner of such property the amount of damages, over and above all benefits, which may have been awarded therefor, within one year after confirmation of the award or assessment, or the final determination of any appeals therefor, with interest at the rate of five per cent per annum, but nothing in this act shall take away any existing right to annul and abandon such proceedings. ('05 c. 103 § 1)

Historical.—"An act to provide for payment of compensation awarded for land condemned for public parks and parkway purposes in cities now or hereafter having a population of over fifty thousand inhabitants." Approved April 5, 1905.

[765—]74. **Same—Payment from park fund.**—That any such city is hereby authorized to pay the whole or any part of any award or judgment for land condemned for park or parkway purposes out of the park fund, in case said city has on hand in the park fund, or can obtain by donation, bequest or otherwise under lawful authority, moneys available therefor. ('05 c. 103 § 2)

[765—]75. **Same—Abandonment of proceedings.**—Nothing contained in this act shall deprive the city of the power to abandon proceedings as now provided by law. ('05 c. 103 § 3)

[765—]76. **One mill tax for parks and parkways.**—Any city in this state now or hereafter having a population of over fifty thousand inhabitants is hereby empowered to levy annually upon all the taxable property of such city a tax not exceeding one mill upon the dollar of the assessed valuation thereof, for the acquisition, maintenance and improvement of parks, parkways and other grounds under the control of the board of park commissioners or other body having jurisdiction and control of parks and parkways in such city. ('09 c. 359 § 1)

Historical.—"An act relating to taxation for parks and parkways in cities now or hereafter having a population of over fifty thousand inhabitants." Approved April 22, 1909.

[765—]77. **Regulating travel on parkways—"Parkway" defined.**—The board of park commissioners, or other governing body having control of parks and parkways of any city now or hereafter having a population exceeding fifty thousand, shall have power to enact ordinances and to prescribe penalties for the violation thereof for the purpose of regulating, controlling and limiting the use of and travel upon and over all parkways heretofore or hereafter established by any such city, in or adjacent to the city, whether such parkways were originally established as parkways or were streets or highways before being taken as parkways, and among other things to exclude from such parkways all vehicles in use for any purpose except carrying passengers. For the purpose of

this act the term "parkway" shall include the roadways and carriage-ways of parks as well as parkways. ('07 c. 440 § 1)

Historical.—"An act relating to parks and parkways and the use of and travel thereon in certain cities." Approved April 25, 1907.

[765—]78. Same—Power of council to levy assessments not divested.—That this act shall not divest or deprive the common council of any such city of any jurisdiction or power now existing by virtue of any statute or charter, to levy assessments for the grading, protecting, improving and ornamenting of any public park, square or grounds now or hereafter laid out, and for planting and protecting shade and ornamental trees and for constructing or reconstructing sewers, sidewalks, retaining walls, gutters, curbing, and for boulevards, macadamizing and paving in or upon any such streets set apart for park and parkway purposes. ('07 c. 440 § 2)

[765—]79. Sprinkling boulevards—Jurisdiction of park board—Petition—Resolution of council.—Whenever in any city of this state having more than fifty thousand inhabitants, a majority of the owners of property fronting upon any street or any portion of any street not less than one block in length, wherein have been constructed or shall hereafter be constructed any grass plots between the sidewalks and roadways of such streets, shall file a petition with the common council or other governing body, to place the grass plots in said street (or such portion of the street upon which the property owned by the petitioners shall front as aforesaid) under the care and management of the board of park commissioners of such city for the purpose of having the grass sprinkled during the season of the year when the streets adjacent thereto are sprinkled, such common council may, upon the filing of such petition, pass a resolution placing the grass plots in the street or portion of street described in such petition, under the jurisdiction, care and management of said board of park commissioners, for the purpose of having the grass thereon sprinkled between the sidewalk and roadway in any such street, and upon the passage of such resolution it shall be the duty of the clerk of such common councils, or other governing body, to forthwith forward to said board of park commissioners a certified copy of such resolution. ('07 c. 179 § 1)

Historical.—"An act authorizing cities of more than fifty thousand inhabitants to sprinkle the boulevards within the limits of any street in such city and to levy special assessments therefor." Approved April 13, 1907.

[765—]80. Same—Boulevard defined.—The word "boulevard" as used in this act shall be construed to mean and refer to all that portion of any street upon which shall have been constructed any grass plot between the sidewalk and roadway of such street. ('07 c. 179 § 2)

[765—]81. Same—Duties of park board.—On receipt by said board of park commissioners of a certified copy of such resolution, the boulevard upon the street or portion of street described in said petition and resolution shall be under the jurisdiction, care and management of said board of park commissioners for the purpose of sprinkling said boulevard whenever necessary, and thereupon said board of park commissioners may cause said boulevard to be sprinkled whenever necessary, and the expense of such work shall in the first instance be payable out of a general fund of such city. ('07 c. 179 § 3)

[765—]82. Same—To keep account of cost—Assessment.—It shall be the duty of the said board of park commissioners at all times to keep accurate account of the cost of sprinkling such boulevards as authorized by this act, in front of such lot or parcel of land

fronting on such boulevard, and on or before the first day of October of each year, said board shall assess the cost and expense of such work as has been done in front of each of said lots or parcels of land since the first day of October in the preceding year, including the proportionate cost of making such assessment, upon such lot or parcel of land. ('07 c. 179 § 4)

[765—]83. Same—Duty of county auditor—To be collected like taxes.—On or before the first day of November of each year, said board of park commissioners shall transmit to the county auditor of the county in which said city shall be located, a certified copy of the assessment roll and said county auditor shall extend the assessments in the proper columns against the pieces or parcels of land assessed, and such assessment shall be collected and the payment thereof enforced in like manner as state and county taxes are collected in such county and in said state, and the payment thereof enforced. When such assessment shall have been collected, the amount thereof shall be paid by the county treasurer to the city treasurer of such city, and by said city treasurer be placed to the credit of the general fund of such city for the purpose of reimbursing the said city for the cost of doing the work for which said assessment was made. ('07 c. 179 § 5)

[765—]84. Same—Re-assessment.—If any such assessment shall be set aside as to any real estate for any cause by a decision of court or for any cause may be found irregular or defective, the said board of park commissioners may make a re-assessment as to such property from time to time and as often as need be, until each lot or parcel of real estate has paid the cost of sprinkling the boulevard in front thereof, together with its proportionate part of the cost of making such assessment. ('07 c. 179 § 6)

[765—]85. Library board may extend privileges to counties and villages—Expenses.—Any public library board in any city of this state having a population of fifty thousand inhabitants or over, whether such board was created by and under the General Laws or by special act of the legislature, may enter into arrangement with the authorities of the county within which it is located, or with the authorities of any adjoining county, or with the authorities of any village within any such county, whereby the inhabitants of any such county, counties or villages, may secure the privileges of using the library and museums of any such library board, and the authorities of any such county, counties or villages are hereby authorized to defray the expenses any such arrangement may involve. ('07 c. 289 § 1)

Historical.—“An act authorizing public library boards in cities having a population of 50,000 inhabitants or over to enter into arrangement with certain county and village authorities for the use of the libraries and museums of such boards, by the inhabitants of such counties and villages, and fixing the maximum tax that may be levied by or for the benefit of any such library board.” Approved April 22, 1907.

Section 3 repeals inconsistent acts.

[765—]86. Same—One mill tax for library board.—There may be annually levied by, or for the benefit of any public library board in any city of this state, having a population of fifty thousand inhabitants or over, whether such board was created by and under the General Laws or by special act of the legislature, a tax of not to exceed one mill upon each dollar of the property in such city, as the value of such property has been assessed and determined for the purposes of general taxation. ('07 c. 289 § 2)

[765—]87. Teachers' retirement fund associations.—In every city of this state now or hereafter having a population of more than fifty thousand inhabitants, the teaching body may, with the con-

sent of the common council or city council in said city, establish an association to be known as "Teachers' Retirement Fund Association," said association to be formed and organized and to have powers and privileges as hereinafter provided. ('09 c. 343 § 1)

Historical.—"An act authorizing the creating of retirement fund associations and the granting of annuities to retired teachers in cities of this state now or hereafter having a population of more than fifty thousand inhabitants and providing a fund out of which such annuities may be paid." Approved April 21, 1909.

[765—]88. **Same—Incorporation.**—Any plan for the establishment of such an association shall include a provision for the organization of a corporation under the provisions of chapter fifty-eight of the Revised Laws of 1905 and acts amendatory thereof. ('09 c. 343 § 2)

[765—]89. **Same—Plan of association—Fund—Approval of council.**—Whenever any teaching body of any city of this state having a population of more than fifty thousand inhabitants desires to avail itself of the privileges of this act, said teaching body shall formulate a plan for the formation and incorporation of such an association and the collection and disbursement of a fund for the benefit of retired teachers in said city, which said plan shall be submitted to the common council or city council of said city for approval, and when the same is approved by said common council or city council, the said association so established and incorporated shall have full power and authority to receive and disburse funds in accordance with the said plan so adopted. ('09 c. 343 § 3)

[765—]90. **Same—Approval of board of education, etc.**—No such association shall be incorporated and commence to collect and disburse funds until the plan so to be proposed by the said teaching body shall be approved in writing by a majority of all the teachers in the employ of the board of education and when the said corporation is formed there shall be filed with the articles of incorporation an affidavit made by some officer of the board of education that a majority of the said teachers have approved in writing of the formation of said association. ('09 c. 343 § 4)

[765—]91. **Same—Contribution by teachers—Taxation.**—Said plan so to be adopted shall include a provision that only such teachers as make a contribution to the said fund, as provided in said plan, shall be entitled to the benefits thereof, and may include a provision that a portion of said fund shall be raised by taxation upon the property of the said city; it being understood, however, that all teachers who are willing to comply with the terms and conditions of the articles of association and by-laws of said association shall be entitled to participate in the benefits of said fund. ('09 c. 343 § 5)

[765—]92. **Same—Taxes, how levied, etc.**—When said plan is adopted, as hereinbefore set forth, and said association is formed and incorporated, the proper officers of said association shall certify annually to the proper authorities, who have charge of the levying of taxes in said city and in the county in which said city is located, the amount which it will be necessary to raise by taxation in order to carry out the plan so adopted, as hereinbefore set forth, for the coming year, and it shall be the duty of the said authorities so having charge of the levying of taxes to include in the tax levy for the ensuing year, a tax in addition to all other taxes, sufficient to produce said sum so certified. Provided, however, that said tax shall in no event exceed one-tenth of a mill upon all taxable property of said city; and the said tax shall be collected as other taxes are collected in said city and when so collected shall be paid over to the treasurer of said association to be held and disbursed in

accordance with the provisions of said plan so to be adopted. ('09 c. 343 § 6)

[765—]93. Same—Power to hold property.—Any such association so to be formed shall be empowered to receive, hold and dispose of real estate or personal property acquired by them, either by gift or purchase or in any other lawful way, as provided by their articles of association so to be adopted, as herein provided. ('09 c. 343 § 7)

[765—]94. Same—Pro rata distribution of funds.—Said plan may provide in the event that the funds of the association are not sufficient to pay annuities in full, as provided in said plan, in any particular year, that the amount available shall be pro-rated between those entitled to receive the same. ('09 c. 343 § 8)

[765—]95. Same—"Teachers" defined.—The word teachers as used in this act shall include superintendents, supervisors, principals, as well as instructors, who are in the employ of the board of education or board of school inspectors in the city mentioned in this act. ('09 c. 343 § 9)

[765—]96. Power to maintain auditorium building—Auditorium board.—That any city in this state now or hereafter having a population of over fifty thousand inhabitants shall have the power and authority, acting by and through its common council, to acquire construct, own, maintain and use an auditorium building, with necessary grounds, suitable for the accommodation of large gatherings of people on public occasions, and to levy and collect the necessary taxes therefor. The mayor of any such city which has acquired and constructed, or which may desire to acquire or construct, any such auditorium building shall forthwith appoint five resident freeholders of such city as an auditorium board, whose term of office shall be, respectively, for one, two, three, four and five years and until their successors are appointed and qualified, and annually thereafter the mayor shall appoint one member of said board, whose term shall be five years, and until his successor is appointed and qualified, and shall fill all vacancies in the said board, from whatever cause, with persons of like qualifications, for the unexpired term. Members of said board shall, within ten days after their appointment, file an oath of office with the comptroller, and shall forthwith, after their appointment and annually thereafter, meet and select from their number a president and vice president of said board.

Meeting of board.—Said board shall hold stated meetings as often as once in each month, and shall keep a record of its proceedings, and the city treasurer, comptroller and city clerk shall be, respectively, treasurer, comptroller and clerk ex-officio of said board.

Compensation of superintendent to be fixed.—The members of said board shall serve without compensation. Said board shall have charge of the construction, maintenance and operation of said building, and shall have power, within the limit of the funds at its disposal, to enter into and carry out on behalf of the city all necessary contracts therefor, and in like manner shall have power to appoint and fix the compensation of the superintendent of said building and such other help as may be necessary in the maintenance and operation thereof.

Money to be paid into the city treasury.—All money derived from the use of said building shall be daily turned into the city treasury, and shall be credited to a fund to be known as the Auditorium Fund, and the expense of maintaining said building and the operation thereof shall be paid from said fund, and any and all money which may accrue from said building in excess of the cost of maintenance

and operation shall be set apart and preserved for the payment of interest upon any bonds or indebtedness which may be issued or incurred for the construction of said building and as a sinking fund for the redemption of such bonds or indebtedness.

Annual statement to city council.—Said board shall in the month of January of each year, and at such other times as the common council may require, make to the common council a full and detailed report of its proceedings, including all receipts and expenditures and the sources thereof for the preceding year. ('07 c. 57 § 1)

Historical.—"An act to authorize any city in this state now or hereafter having a population of over fifty thousand inhabitants to acquire, construct, use and maintain, with suitable grounds, an auditorium building, and to levy necessary taxes therefor, and to confirm previous acts of such cities in that regard." Approved March 21, 1907.

[765—]97. **Same—Validating previous acts.**—All acts and proceedings heretofore had or taken by any such city toward acquiring grounds for and constructing any such building are hereby validated and confirmed. ('07 c. 57 § 2)

[765—]98. **Destruction of garbage—Power to acquire plant.**—That any city in the State of Minnesota; now or hereafter having a population of over fifty thousand, is hereby authorized and empowered to acquire by purchase or condemnation, lands on which to erect plants for the destruction of garbage and other refuse matter; also to purchase, erect, operate and maintain such plants for the destruction of garbage and other refuse matter, also to provide for the collection of all such garbage or refuse matter and delivering the same to such destruction plants or other places, and to pay and contract to pay for the same in such annual installments and at such a rate of interest on deferred payments as the common council of such city may determine. Provided that each and every act and thing herein authorized shall receive at least a three-fourths vote of all members of such common council before the same shall be effective for any purpose. ('05 c. 121 § 1)

Historical.—"An act to authorize any city of this state now or hereafter having a population of 50,000 to acquire lands and erect thereon plants for the destruction of garbage and other refuse, and to contract for gathering the same, and to pay for the same in annual installments." Approved April 7, 1905.

[765—]99. **Same—Limit of indebtedness—Tax estimates, etc.**—The obligations incurred by any such city in the making of any such contracts shall not be considered as a part of its indebtedness under the provisions of its governing charter, or of any law of this state fixing the limit of amount of indebtedness for such city; nor shall such city be required at any time before making, or during the life of such contracts to have specifically provided for the same by previous tax estimates or levy, or to provide for or have on hand in its treasury more money applicable to such contracts than the amount to be paid thereon during a single year. ('05 c. 121 § 2)

[765—]100. **One mill tax for repairing and grading streets during certain years in cities not under home rule charters.**—The city council or common council of every city in this state now or hereafter having over fifty thousand inhabitants is hereby authorized and empowered to levy and raise annually during the years 1909, 1910, 1911 and 1912, by taxation, for the purposes of repairing and grading public streets and highways in such city, independently of and in addition to all other sums for like purposes authorized by law, an amount not to exceed one mill on each dollar of the assessed valuation of the taxable property within such city. All such taxes shall be levied by resolution of the city council or common council of the city in which such taxes are levied, and such city council or common council shall cause to be transmitted to the

county auditor of the county in which such taxes are levied, at the same time and in the same manner as other general taxes, a statement of all such taxes by it levied, and such taxes shall be collected and payment thereof enforced with and in like manner as state and county taxes are collected and payment thereof enforced. Such taxes when collected shall be used by such city council or common council for the purposes of repairing and grading such public streets and highways in the city in which such taxes are levied as said city council or common council may deem for the best interests of such city, and all such repairing and grading of public streets and highways shall be done under the supervision of the city engineer of such city. This act shall not apply to any city operating under a home rule charter, framed pursuant to section 36, of article 4, of the constitution of Minnesota. ('09 c. 368 § 1)

Historical.—“An act to authorize and empower cities of over fifty thousand inhabitants in the state of Minnesota to levy and raise taxes for the purpose of repairing and grading public streets and highways in such cities.” Approved April 22, 1909.

PROVISIONS RELATING TO CITIES OF SECOND CLASS.

[765—]101. **Public bath house.**—That any city in the state of Minnesota at any time having twenty thousand and not more than fifty thousand inhabitants, according to the last official promulgated state or national census, is hereby authorized and empowered to establish and maintain a public bath house and grounds and park in connection therewith and for that purpose to acquire, by grant, gift, purchase, lease or otherwise, lands within or without the corporate limits of such city, including land on any island in any navigable river lying in close proximity to such city in this or adjoining state, and appropriate money therefor and for the maintenance thereof, whenever the common council of such city by a majority vote thereof, deems the same necessary or advisable. ('07 c. 22 § 1)

Historical.—“An act to provide for the establishment and maintenance of a public bath house and grounds and park in connection therewith, in cities having twenty thousand and not more than fifty thousand inhabitants.” Approved February 27, 1907.

[765—]102. **Same—Board of directors.**—When the common council of any such city shall have decided to establish and maintain a public bath house and grounds and park in connection therewith, under this act, the mayor of such city shall, with the approval of the common council, proceed to appoint a board of three directors for the same, choosing from the citizens at large, with reference to their fitness for such office, and not more than one member of the common council shall be at any time a member of said board; the president of the board of health and the president of the park board of such city shall be ex-officio members of said board. ('07 c. 22 § 2)

[765—]103. **Same—Terms—Removal.**—Said directors shall hold office, one for one year, one for two years, and one for three years from the first day of May following their appointment, and the mayor of such city appointing such board, shall designate the respective terms of each member so appointed, and annually thereafter, the mayor of said city shall, before the first of May, appoint as before one director to take the place of the retiring director who shall hold his office for three years and until his successor is appointed. The mayor of said city, may, by and with the consent of the common council, remove any director for misconduct or neglect of duty. ('07 c. 22 § 3)

[765—]104. **Same—Vacancies—Compensation.**—Vacancies in the board of directors occasioned by removal, resignation or other-

wise, shall be reported to the common council and be filled in like manner as original appointments, and no director shall receive compensation for services rendered as such. ('07 c. 22 § 4)

[765—]105. Same—Duties and powers.—Said directors shall, immediately after appointment, file their written acceptance and meet and organize by the election of one of their number, president, and by the election of such other officer as they may deem necessary. They shall make and adopt such by-laws, rules and regulations for their own guidance and for the government of the bath house, grounds and park, or either of them as may be expedient, not inconsistent with this act, or any ordinance passed by the common council of such city. They shall have the control of the expenditures of all moneys collected and placed to the credit of the bath house fund, and of the construction of any bath house building or addition thereto, or the improvement of the grounds and park in connection therewith, and of the supervision, care and custody of the grounds, bath house and buildings constructed, leased or used in connection therewith, subject to the approval of the common council of such city. Provided, that all moneys received for such bath house and grounds shall be deposited in the treasury of said city to the credit of said bath house and grounds fund, and shall be kept separate and apart from the fund of such city, and shall be paid out only upon the properly authenticated voucher of the bath house board. Said board shall have the power to appoint a suitable person to take care of such bath house and grounds and necessary assistants and fix their compensation, and shall also have power to remove said appointees and shall in general carry out the spirit and intent of this act. ('07 c. 22 § 5)

[765—]106. Same—Rules and regulations.—Every bath house, including the grounds and parks in connection therewith, established under this act, shall be subject to such reasonable rules and regulations as the bath house board may adopt not inconsistent with this act or any ordinance passed by the common council of such city in order to render the use of said bath house and grounds, or either of them, of the greatest benefit to the greatest number, and said board may exclude from the use of said bath house or grounds, or either of them, any and all persons who shall wilfully violate such rules. ('07 c. 22 § 6)

[765—]107. Same—Annual report.—The said board of directors shall make on or before the first day of April of each year, an annual report to the common council of such city, stating the conditions of their trust on the first day of March of that year, the various sums of money received and the sources from which received and how such moneys have been expended and for what purposes, with such other statistics, information and suggestions as they may deem of general interest. ('07 c. 22 § 7)

[765—]108. Same—Ordinances.—The common council of such city shall have power to pass ordinances for the control and regulation of such bath house, grounds and parks in connection therewith, fixing suitable penalties for the punishment of persons violating the same and for committing injury to such bath house, or grounds and park in connection therewith, or any shrub, plant or other property thereon or connected therewith. ('07 c. 22 § 8)

[765—]109. Same—Gifts.—Any person desiring to make donations of money, personal property or real estate for the benefit of such bath house and grounds and park in connection therewith, or either, shall have the rights to vest the title to the money, property or real estate so donated in such city to be held and controlled by such board, subject to the direction and approval of the com-

mon council of such city according to the terms of the deed, gift or devise [devise] of such property. ('07 c. 22 § 9)

[765—]110. Free open air concerts.—That in all cities of this state having a population of not less than 20,000 and not more than 50,000, the city council shall have the power annually to raise by taxation and appropriate the sum of not more than fifteen hundred dollars to be expended under the direction of the city council of such city for the purpose of providing free open air concerts for the benefit of the people of such city. ('09 c. 155 § 1)

Historical.—"An act to provide for free open air concerts in cities having a population of not less than 20,000 and not more than 50,000." Approved April 7, 1909.

PROVISIONS RELATING TO CITIES OF THIRD CLASS.

[765—]111. Annexation of territory.—Any territory so conditioned as properly to be subjected to city government which has been wholly or partly platted into lots, and which has a resident population of not less than five hundred to the square mile, taken as a whole, and not being within the limits of any city or village and lying adjacent to any city in the same county now or hereafter having a population of not more than twenty thousand or less than ten thousand inhabitants, may be annexed to and become a part of any such city upon the terms hereinafter prescribed. ('09 c. 137 § 1)

Historical.—"An act providing for the annexation of territory adjacent to cities now or hereafter having a population of not more than twenty thousand and not less than ten thousand inhabitants, and repealing chapter 168 General Laws of 1907, as amended by chapter 5 General Laws 1909, and all laws inconsistent herewith." Approved April 3, 1909.

Section 14 repeals inconsistent acts. Section 15 repeals Laws 1907, c. 168, as amended by Laws 1909, c. 5.

[765—]112. Same—Petition—Census—Duty of county auditor.—Ten per cent or more of the voters residing within any city and in such territory proposed to be annexed thereto may petition the county board of the county in which such city and territory are situate to call an election for the determination of such proposed annexation. A census of the resident population of such territory shall first be taken by one or more of such petitioners, and if found to be within the numbers specified in section 1 [765—111] hereof, the petition aforesaid shall be presented within eight weeks thereafter. It shall set forth the boundaries of such territory, that a census has been taken of the number of actual residents therein and the number thereof, and the name of the city to which the same is prayed to be annexed. It shall be verified by the oaths of at least three of the petitioners, declaring that such census was accurately taken within the dates specified therein, and that the statements made in the petition are true. The number of voters shall be ascertained from the number of votes cast for governor at the last preceding general election at any such city prior to the making of such petition. Such petition shall be filed with the county auditor of the county in which such territory is located, and it shall be the duty of the county auditor to cause a copy thereof to be served upon the city clerk of the city to which annexation of such territory is prayed within five days after the same is filed in the office of the county auditor. ('09 c. 137 § 2)

[765—]113. Same—Duty of council and clerk.—At the next meeting of the city council of the city to which annexation of such territory is prayed, after the service of a copy of any such petition, the city clerk shall lay the same before the council, and at such meeting or a meeting subsequent thereto the city council shall determine by resolution whether the city desires to consent to the

annexation of such territory, and the city clerk shall forward to the county auditor, immediately after the adoption of any resolution upon such question, a certified copy of the resolution of the city council accepting or rejecting such annexation, and thereupon the county auditor shall attach such certified copy of such resolution to the original petition for annexation. ('09 c. 137 § 3)

[765—]114. Same—Duty of county board.—In case the resolution of such city council shall be in favor of annexation the county board shall proceed as in the next section specified, and in case the city council shall vote to reject such annexation no further proceedings shall be had by the county board. ('09 c. 137 § 4)

[765—]115. Same—Election—Notice.—If the city council shall vote in favor of such annexation as hereinbefore provided, the county board at its regular meeting shall determine whether the facts stated in such petition are true, and, if they so find, the county board shall order an election to be held by the voters of such city and of the territory described in such petition, and shall cause a copy of said petition, with a notice attached fixing a time and place for holding such election, to be posted in three public places within the boundaries of the territory described in such petition. The time of holding such election shall be not less than twenty nor more than thirty days after such posting, and shall be held within such city and the territory proposed to be annexed thereto. A copy of such petition and notice of election shall also be published in a legal newspaper published within said city, and if there be a newspaper published within the limits of such territory proposed to be annexed, a copy thereof shall also be published in such newspaper, and such publications shall be made once in each week for two successive weeks prior to such election. ('09 c. 137 § 5)

[765—]116. Same—Election, how conducted—Ballots.—Such election shall be conducted in said city in the same manner and the judges and clerks of election therefor shall be appointed in the same manner as at municipal elections therein and the same shall be conducted in all respects as municipal elections, except as hereinafter provided. The county board shall appoint three inspectors, residents of the territory proposed to be annexed, who shall act as judges of said election, who shall appoint two persons clerks of such election, and such judges and clerks shall conduct the same in the same manner as general elections, except as herein provided. Polls shall open at nine o'clock in the morning and close at six o'clock p. m. Only voters residing within said territory and within said city shall be entitled to vote at such election. All ballots at such election shall bear the words "For annexation, Yes, No," with a square after each of said words, in one of which the voter shall make a cross to express his choice. The judges of said election in said city and the inspectors of such election in such territory shall at once upon the close of such election, make and file with the county auditor certificates of the results of such election in such territory and in each election district of such city, declaring therein the time and place of holding such election, that they have canvassed the ballots cast thereat and stating the number of ballots cast both for and against such proposition. The certificates shall be signed and verified by at least two of said inspectors in such territory and two judges in each election district of said city to the effect that the statements thereof are true. ('09 c. 137 § 6)

[765—]117. Same—Duties of auditor.—The auditor shall attach said certificates to the original petition with a copy of the resolution appointing said inspectors and the original proofs of the posting and publication of the election notice, and file the whole as one

document in his office. If the certificates show that the majority of all votes cast at such election were in the affirmative, the county auditor shall forthwith make and transmit to the secretary of state a certified copy of said document to be there filed as a public record, and thereupon the annexation of such territory shall be deemed complete. He shall also file a certified copy of said document in the office of the register of deeds of the county, and the same shall be recorded, and shall also file a certified copy thereof with the city clerk of the city in which such territory is annexed. If the vote be adverse no subsequent petition shall be entertained within one year next after said election. ('09 c. 137 § 7)

[765—]118. Same—Expenses of annexation.—All proper expenses of the annexation shall be borne by such city in case the city council of any such city shall vote to accept annexation of such territory, including fees for copies, recording, publication and expenses of election. ('09 c. 137 § 8)

[765—]119. Same—Existing indebtedness.—No such territory annexed to any such city shall be in any manner taxed to pay any part of any indebtedness existing on the part of any such city prior to or at the time of such annexation, nor shall any such territory be in any manner released of or from liability to taxation for any debt existing against any municipality of which such territory formed a part prior to such annexation. ('09 c. 137 § 9)

[765—]120. Same—Property and indebtedness, how apportioned—Appeal.—It shall be the duty of the county board to make an equitable division of the public property of the several towns and school districts of which such territory annexed formed a part prior to such annexation, and to apportion the property and indebtedness, if any of each thereof between the respective towns, school districts and city in such manner as shall be just and equitable, having in view the location and value of public buildings and real and personal property where the same remains after annexation, the amount of taxes due and delinquent and the indebtedness of each such town, school district and city, if any, and for what purpose the same was incurred, all in proper relation to the last assessed valuation of all of the taxable property of such town, school district and city, and shall make such apportionment and division thereof by resolution and other appropriate proceedings, first giving at least twenty days' notice to each town and school district and to the city to be affected thereby. Any city, town, school district or territory affected by any resolution, order or proceeding of any county board, as herein authorized to be taken, may appeal to the district court from any such resolution, order or proceeding within twenty days after the making thereof, and in case of appeal by the residents of such territory annexed the same may be taken by forty per cent of the voters thereof; and in case of such appeal all appeals shall be tried and disposed of in one proceeding by the district court in the same manner in all respects as appeals from the decision of the county board on claims against the county, except that the trial thereof shall be by the court without a jury, and an appeal from the determination of the district court shall lie with the supreme court in the same manner as in civil actions. ('09 c. 137 § 10)

[765—]121. Same—Readjustment of wards.—The city council of any such city to which any such territory shall be annexed as herein provided shall have authority by ordinance to provide for a readjustment of the boundaries of the several wards existing in such city in such a manner that the population of each such ward, as the same shall exist at the time of such annexation, shall be made as nearly equal as practicable after the addition of any such terri-

tory, provided the several wards shall be composed of contiguous territory. ('09 c. 137 § 11)

[765—]122. Same—Annexed territory, how governed—Schools—School districts—Intoxicating liquors.—Such annexed territory shall in all respects be governed by laws governing the city at the time of such annexation, and said annexed territory shall be governed by all of the laws relating to schools and school districts in said city and the school property awarded to such annexed territory by the county board shall be under the control and management of the officers and proper authorities of such city controlling and governing the school property of such city, subject to the provisions herein with respect to the indebtedness of any such territory, and in case the detaching of any such territory shall divide any school districts outside of the limits of the city, the county board shall have authority to make a proper readjustment of the boundaries thereof as provided by law. Provided, that no license for the sale of intoxicating liquors in such territory so annexed to any such city shall ever be granted unless the question of issuing the same shall be first submitted to the electors residing therein and shall be authorized by a majority vote of the electors voting at such election on such question. And the city council of any such city is hereby authorized to submit such question to the voters of any such territory so annexed at a special election to be called and held therein and to appoint the necessary judges and clerks for the purpose of conducting the same in the same manner that other municipal elections are held and conducted, and any such license so granted, without complying with the terms of this section, shall be void. ('09 c. 137 § 12)

[765—]123. Same—New charter.—Within six months after the annexation of any territory to any city as herein provided, the board of freeholders to frame charters as provided by section 749, Revised Laws of 1905, if such board of freeholders shall have been appointed, shall frame a charter for such city as the same exists after such annexation and deliver to the chief executive of such city the draft of such proposed charter as provided in section 751, Revised Laws of 1905, and the same shall be submitted for the approval of the voters of such city as provided by law. ('09 c. 137 § 13)

[765—]124. Incorporation within city limits of land of state institutions.—That any lands adjacent to any city now or hereafter having a population of not less than ten thousand inhabitants, and not more than twenty thousand inhabitants in this state, which are wholly owned by the State of Minnesota, and used as a part of any state institution under the jurisdiction and control of the state board of control of state institutions, may be annexed to any such city by resolution of the city council or other governing body thereof, whenever such city council may be requested to annex such state lands by resolution adopted by the state board of control of state institutions, which resolution shall in all cases describe the lands to be annexed. ('07 c. 349 § 1)

Historical.—“An act providing for altering boundaries of cities now or hereafter having a population of not less than ten thousand inhabitants and not more than twenty thousand inhabitants by the annexation of territory thereto in certain cases.” Approved April 23, 1907.

See section [765—]7.

[765—]125. Same—When annexation is complete.—Such annexation shall be deemed complete upon the adoption of any such resolution by the city council or other governing body of such city in the manner above specified, when a duly certified copy of such resolution shall be filed in the office of the secretary of state.

A certified copy of such resolution shall also be recorded in the office of the register of deeds of the county in which such city is situate. ('07 c. 349 § 2)

[765—]126. Same—What lands may be annexed.—Any lands owned by the state, as provided in section 1[765—124] and adjacent to any city, as herein provided, may be annexed as provided herein, save and except lands situate outside of the limits of the county in which such city is situate. ('07 c. 349 § 3)

[765—]127. Street railways.—That the city council of any city in this state now or hereafter having a population of not less than 10,000 inhabitants and not more than 20,000 inhabitants, according to the then last official state or national census, is hereby empowered to grant by ordinance to any person, persons or corporation the authority, right and privilege to construct, maintain and operate street railway lines by other than steam power upon the streets of any said city, and also authority to connect such street railway lines in any said city with other territory, cities and villages in the State of Minnesota for a period of not exceeding twenty-five years. Provided, however, that nothing herein contained shall be construed to authorize the making of any exclusive franchise. ('05 c. 250 § 1)

Historical.—“An act empowering city councils in cities now or hereafter having a population of not less than 10,000 inhabitants and not more than 20,000 inhabitants to grant authority for the construction of street railway lines in such cities, and for the purpose of connecting said cities with surrounding territory and other cities and villages, and legalizing and confirming such authority heretofore granted by such city councils.” Approved April 18, 1905. See R. L. § 5504.

[765—]128. Same—Certain grants legalized.—Where any city council of any said city has heretofore granted by ordinance or resolution to any person, persons or corporation the right and authority to use its streets for the construction and operation of street railway lines of the character described in section 1[765—127] hereof, for a period not to exceed twenty-five years, and where such ordinance or resolution has been accepted by such person, persons or corporation, every such ordinance or resolution is hereby legalized and declared to be valid, provided that nothing herein shall be construed to confirm or legalize the granting of any franchise to the extent of making the same exclusive. ('05 c. 250 § 2)

[765—]129. Same—Not to apply to cities under home rule charters.—This act shall not include or apply to cities now governed under a charter adopted under and pursuant to Sec. thirty-six, article four, of the constitution of this state, as amended, and chapter three hundred and fifty-one of the Gen. Laws of 1899 and the several acts amendatory thereof. ('05 c. 250 § 3)

PROVISIONS RELATING TO CITIES OF FOURTH CLASS.

[765—]130. Incorporating within limits land in adjoining county.—That any city, containing a population of ten thousand or less, whether incorporated by a general or special act, may include within its corporate limits, land (lands) which are not already incorporated, lying within an adjoining county and contiguous to the corporate limits of such city. Provided, however, that such lands shall not be within ten miles of any other incorporated city or village within this state; and provided further, that for the purposes of this act lands separated from such city by an intervening river shall be considered contiguous to the corporate limits thereof. ('05 c. 191 § 1)

Historical.—“An act to permit cities containing a population of ten thousand or less, to include within their corporate limits land (lands) lying within the limits of an adjoining county.” Approved April 15, 1905.

[765—]131. Same—Proceedings—Jurisdiction acquired.—The city council of such city, desiring to include within its corporate limits lands lying within an adjoining county as provided in section one [765—130] of this act, shall pass a resolution describing the land (lands) desired to be included within such corporate limits, which resolution shall be submitted to the town supervisors of the town in which the said lands are included and to the board of county commissioners in which said lands are situate. If the supervisors of such town and the board of county commissioners of such county shall approve the said proposed annexation by resolution duly made and entered on the minutes of the town and by resolution duly made and entered on the minutes of the board of county commissioners, a duly certified copy of the resolution, together with duly certified copies of the resolution of the board of supervisors and of the board of county commissioners, shall be filed in the office of the secretary of state and recorded in the office of the register of deeds of the county within which said city is situate and of the county within which said lands are situate, and a copy of such record duly certified by the register of deeds shall be filed in the office of the secretary of state, and thereupon the said lands in said adjoining county shall become part of the said city for all purposes and be subject to the laws, ordinances and jurisdiction of said city for all purposes whatsoever, except as hereinafter provided. ('05 c. 191 § 2)

[765—]132. Same—Taxation—School districts.—No territory so acquired shall at any time be subject to taxation for any indebtedness of said city incurred at any time prior to the date of such annexation. If the boundaries of the special or independent school district existing in said city, shall by the law under which said school district is organized, be co-extensive with the limits of said city, then and in that case, the said territory so included within said corporate limits under this act, shall be construed to be part of the said school district, but shall not be subject to taxation for any indebtedness incurred by said school district before the date of such annexation. ('05 c. 191 § 3)

[765—]133. Same—Consent required.—No such territory shall be annexed, however, unless the majority of the owners thereof shall consent thereto in writing. ('05 c. 191 § 4)

[765—]134. Detachment of certain lands—Petition—Notice.—The owner of any unplatted tract of land containing not less than forty acres, included within the corporate limits of any city in this state containing 10,000 inhabitants or less, and used and occupied exclusively for agricultural purposes, may petition the district court of the county in which such tract of land is situated for a decree detaching such tract of land from such city. Upon the filing of such petition the court shall fix a time for the hearing thereon which shall not be less than thirty days from the date of the filing of such petition; and the petitioner shall serve or cause to be served a notice of such hearing upon the mayor or city recorder of such city at least twenty days before the time fixed for such hearing, and shall also cause a copy of such notice to be published in a newspaper, published in said city, at least two weeks before the time so fixed for such hearing. ('07 c. 221 § 1)

Historical.—"An act to provide in certain cases for the separation from cities, containing 10,000 inhabitants or less, of unplatted agricultural lands included within the corporate limits of such cities." Approved April 17, 1907.

Constitutionality.—Laws 1907, c. 221, is constitutional. *Hunter v. City of Tracy*, 104 Minn. 378, 116 N. W. 922; *Brenke v. Borough of Belle Plaine*, 105 Minn. 84, 117 N. W. 157.

Application in general.—Laws 1907, c. 221, held not applicable to the borough of Belle Plaine. *Brenke v. Borough of Belle Plaine*, 105 Minn. 84, 117 N. W. 157.

[765—]135. **Same—Hearing and decree.**—If, upon the hearing, the court shall find that such tract of land is of the nature and quantity as hereinbefore set forth, and that it may be detached from such city without unreasonably affecting the symmetry of the settled portions of such city, it may grant such decree, and said tract of land shall thereon become detached from such city and shall thereafter form a part of the township in which it was originally situated, and shall in all things be subject to the town government of such township. ('07 c. 221 § 2)

[765—]136. **Same—Existing indebtedness.**—Such separation from said city shall not release any such tract of land from its liability on account of any outstanding bonded indebtedness of such city existing at the time of its separation therefrom. ('07 c. 221 § 3)

[765—]137. **Same—Not to apply to cities under home rule charters.**—This act shall not be construed as in any manner superseding, repealing, amending or qualifying the provisions of any home rule charter heretofore adopted by any city or village under the laws of this state, and this act shall not in any manner apply to any such city or village. ('07 c. 221 § 4)

[765—]138. **Salaries of mayor and council—Submission to voters.**—That in all cities in this state having a population not to exceed ten thousand inhabitants the common council of such cities may, prior to any annual city election, to be held therein hereafter, pass a resolution fixing the annual salaries of the mayor and the members of such common council; at not to exceed one hundred dollars per annum for each of said officers, and said common council shall cause notice thereof to be given to the voters of such city in the notice of the annual city election, and the recorder of such city shall place upon the official ballot of said city, to be used therein at said annual city election the proposition "in favor of paying the sum of \$, . . . as salary to the mayor and each member of the common council," and also the proposition "against paying the sum of \$. . . as salary to the mayor and each member of the common council." That said recorder shall place the amount of money in each of the above propositions on said ballots, as said common council shall determine by resolution, as aforesaid, but not to exceed one hundred dollars. That the voters of said city, at such annual city election shall vote for or against the proposition of paying the mayor and the respective members of the common council as salary the amount placed upon said ballot, as aforesaid, and if a majority of the voters of said city voting on said proposition shall vote in favor of the paying of said salary then said proposition shall be deemed carried, and said mayor and each member of said common council shall be entitled to be paid out of the city treasury the sum so voted for, as an annual salary for services to be rendered by them thereafter. That said amount voted for annual salary of said officers shall thereafter be paid to each of said officers as their annual salary until otherwise changed by a vote of the legal voters of said city as herein provided for fixing said salaries. ('05 c. 301 § 1)

Historical.—"An act to provide for fixing salaries for the mayor and the members of the common council of all cities having a population not to exceed ten thousand (10,000) inhabitants." Approved April 19, 1905.
Section 4 repeals inconsistent acts.

[765—]139. **Same—Votes, how cast, etc.**—That the voter wishing to vote for or against the proposition of paying said amount for salary to the said officer shall place a cross mark (X) opposite the proposition for which he intends to vote. All the votes cast for or against said proposition shall be canvassed, counted and re-

turned to the city recorder, the same as the votes are for city officers in said city. ('05 c. 301 § 2)

[765—]140. Same—To what cities applicable.—This act shall apply to all such cities herein mentioned, whether incorporated under a general or special law, but nothing herein contained shall be construed to apply to any municipality now operating under a home rule charter. ('05 c. 301 § 3)

[765—]141. Parks.—That any city of this state, now or hereafter having a population of not more than ten thousand inhabitants, is hereby authorized and empowered, in addition to the other powers conferred upon it by law, to acquire by gift, purchase, devise, condemnation or lease, lands within its corporate limits, or lands contiguous to such city, and lying outside of its corporate limits, not exceeding fifty acres in extent of area, for use by the public for a park, and for park purposes, and may provide for the improvement thereof by the planting and preservation of trees and shrubs, by inclosing, ornamenting and protecting the same, and in such other ways as may be necessary to make such lands suitable for the uses of a public park. ('05 c. 335 § 1)

Historical.—"An act to provide for the acquisition, improvement and maintenance of public parks and for the appointment of park boards in cities of not more than 10,000 inhabitants." Approved April 19, 1905.

Section 4 repeals inconsistent acts.

[765—]142. Same—Park board—Powers and duties.—That the city council of every such city may by a majority vote create a park board for such city, to be composed of three members, to be chosen by said council for terms of one, two and three years respectively, all of whom shall be free holders and residents of such city, and who shall serve without compensation. Such park board shall be authorized and empowered, for and on behalf of and in the name of such city, to acquire by gift, purchase, devise, condemnation or lease, the land to be held and used for park purposes, and shall provide for the improvement thereof as specified in section one of this act. Said park board shall have general supervision, management and control of such park and may appoint a suitable person to care for and take charge of the same, and may prescribe his duties and fix his compensation therefor. ('05 c. 335 § 2)

[765—]143. Same—Annual appropriation.—That for the purposes of carrying out the provisions of this act the city council of every such city may appropriate annually out of any of the revenues of the city received from taxes, saloon or other licenses and fines, a sum of money not exceeding ten per cent of such revenues, the money so received to be disbursed for the purposes herein mentioned, in such manner and subject to such rules and regulations as said city council or said park board shall direct. ('05 c. 335 § 3)

[765—]144. Same—Not to apply to cities under home rule charters.—This act shall not include or apply to cities now or hereafter governed under a charter adopted under and pursuant to section thirty-six, article four of the constitution of this state, as amended, and chapter three hundred and fifty-one of the General Laws of 1899 and the several acts amendatory thereof. ('05 c. 335 § 5)

[765—]145. Park districts—Provisions, how availed of.—Any incorporated city in the state of Minnesota having a population of less than ten thousand inhabitants may by a two-thirds vote of its council by yeas and nays at a regular meeting thereof, take advantage of the provisions of this act. ('09 c. 486 § 1)

Historical.—"An act creating park districts in cities having a population of less than ten thousand inhabitants and for the government thereof, creating a board of park commissioners, conferring power and authority upon such board and district, and providing rules for the government thereof." Approved April 24, 1909.

[765—]146. Same—Ordinance—Submission to voters—Ballots.—Any city desiring to take advantage of this act shall do so by the ordinance expressing its intent and desire so to do, whereupon the territory embraced in such city shall be deemed and it is thereby declared to be a park district of the state of Minnesota. But before such resolution or ordinance shall take effect the same shall be submitted to the electors of such city at a regular city or special election and approved by a majority of those voting thereon. The ballots may be substantially as follows, to-wit:

“For the creation of a park district to be known as ‘Park District of the state of Minnesota’ and creating a board of park commissioners, and providing for the government thereof;”

Or “against the creation of a park district to be known as ‘Park District of the state of Minnesota’ and creating a board of park commissioners, and providing for the government thereof.” (’09 c. 486 § 2)

[765—]147. Same—Park districts, how known—Powers.—Each park district so created shall be known as “Park District of the city of” and as such shall have a seal and perpetual succession, with power to sue and be sued, contract and be contracted with, acquire by purchase, gift, devise or otherwise and hold, own, possess and maintain real and personal property in trust for the purpose of parks, boulevards and ways and to exercise all the powers hereinafter designated or which may hereafter be conferred upon it. (’09 c. 486 § 3)

[765—]148. Same—Board of park commissioners—Membership and qualifications, etc.—The powers of such park district shall be exercised by a board of park commissioners consisting of five members who shall hold office for the period of five years from and after the date of their election and qualification and until their successors are duly elected and qualified except the members of the first board, who shall hold office as follows: One member until one year from the last mentioned date, one member until two years from the last mentioned date, one member until three years from the last mentioned date, and one member until four years from the last mentioned date. The members of the park commissioners shall qualify by taking and filing with the clerk or recorder of the city the oath prescribed by law. The city treasurer shall be ex-officio treasurer of the park district, he shall take the oath prescribed by law and shall furnish such bond as may be required by the commission. The members of the commission shall be elected by qualified electors of the park district at the annual city election, shall qualify within ten days of this election, and shall within twenty days after said election organize by the selection of a president, vice-president and secretary. The first board may be elected at a regular annual city election or at a special election called for that purpose by the city council. The members of the board shall receive no compensation for their services as such and shall have the qualifications of electors of such district. They shall not be interested in any contract entered into by said commission. Vacancies on such board shall be filled by the board until the next regular election of members of the board, when such vacancies shall be filled by election. Removal of residence from the park district by any member of the commission shall create a vacancy. (’09 c. 486 § 4)

[765—]149. Same—Powers of commission.—The park commission shall have power:

1. To acquire by purchase, gift, devise, condemnation or otherwise, land within its territorial limits or within two miles therefrom, for parks, boulevards and ways, and shall have sole and exclusive authority to maintain, govern, erect and improve the same.

2. To lay out, open, grade, curb, pave and otherwise improve any path, way or street, in, through, or around said parks and to construct, erect, build, maintain, manage, govern and erect any and all buildings, pavilions, play and pleasure grounds or fields and such other improvements of a like character as may be deemed necessary.

3. To pass all ordinances necessary, requisite and needful for the regulation and government thereof, and to make, change and enforce any order with reference thereto.

4. To levy special assessments on all property specially benefited by the purchase, opening, establishment and improvement of such parks, boulevards, and ways or streets or ways about the same.

5. To appoint such engineers, surveyors, clerks and other officers and employes, including such police force as may be necessary and to define and prescribe their respective duties and authority and to fix their compensation.

6. To issue the negotiable bonds of the park district in a sum not to exceed two per cent. of the value of the taxable property therein situated, for the sale [sole] and exclusive purposes of purchasing and acquiring lands for such parks, boulevards and ways, and for the permanent improvement thereof, including the erection and construction of buildings, pavilions, play and pleasure fields, provided such bonds shall not bear a rate of interest to exceed six per cent and provided, further, that upon the affirmative vote of the electors of such district as by law provided, such commission may be authorized to issue such bonds in an amount in the aggregate not to exceed five per cent. of such assessed value.

7. To levy taxes upon all the property within said district for the purpose of maintaining and improving said parks, boulevards and ways and to defray the expenses of such board; provided, that such tax so levied shall in no year exceed the sum of five mills on each dollar of the taxable property within said district.

8. To establish building lines for all property fronting on any park, boulevard or way under the direction and control of such commission, and to control the subdivision and platting of property within four hundred feet thereof.

9. To borrow money in anticipation of taxes already levied to defray the expenses of the year and to issue therefor the notes of obligation of the district.

10. To connect any park or parks owned or controlled by it with any other park or parks, and for that purpose to select and take charge of any connecting street or streets or parts thereof, and the said park commission shall have sole and exclusive charge and control of such street or streets so taken for such purpose. ('09 c. 486 § 5)

[765—]150. Same—Meetings—Ordinances—Contracts—Claims, etc.—The park commission shall hold a regular meeting on the first Tuesday of each month at such hour as it may by rule designate, and such special meetings as it may deem necessary. Special meetings may be called by the president and must be called by him upon the request in writing of two members of the board. The commission shall have power to adopt rules of procedure as it may deem necessary. The powers of the commission shall be exercised by ordinance unless otherwise provided. All ordinances shall be read twice and at least eight days shall intervene between the readings. They shall be adopted by ye and nay vote and shall be approved by the president and published in the official newspapers of the city and shall go into effect upon such publication. The enacting clause of all ordinances shall be as follows: "Be it enacted by the park commissioners of the park district of the city of, state of Minnesota;" the ye and nay vote shall be taken on all propositions

involving the expenditure of money, and levying of taxes or the issuance of bonds or other certificates of indebtedness. All contracts shall be let to the lowest responsible bidder after advertisement in the official newspaper of the city for three successive weeks, once in each week, provided, that such commission shall have the power to reject all bids. All contracts shall be in writing and signed by the president and clerk of the board and unless so executed shall be void. At no time shall the debt of the park district exceed five per cent of the taxable property within the district, according to the last preceding assessment. No bill, claim, account or demand against the district shall be audited, allowed or paid until a full itemized statement in writing properly verified shall be filed with the park commission. All claims against the park district arising out of negligence shall be in writing and verified by the claimant, and shall obtain a full, clear and concise statement of the transaction out of which it is alleged to arise giving time, place, extent of injury or damage, and shall be filed within thirty days from the date thereof with the clerk of the board. No action shall be maintained unless begun after thirty days and within six months from the date of the filing of the claim. ('09 c. 486 § 6)

[765—]151. Same—Jurisdiction of municipal court, etc.—The municipal court of the city shall have exclusive jurisdiction to try and determine all causes of action for violation of the rules or ordinances enacted by the board and the procedure therein with the right of appeal, shall be as prescribed by general law. ('09 c. 486 § 7)

[765—]152. Same—General laws, when applicable.—In the issuing of bonds, warrants, certificates of indebtedness and in levying any tax or special assessment and in otherwise carrying out, enforcing or making effective any of the powers herein granted, the park commissioners and their officers and the park district shall be governed by and shall follow the laws enacted for the government of cities, except as herein specially provided. ('09 c. 486 § 8)

[765—]153. Water frontage tax.—The city council of any city having a population of ten thousand inhabitants or less shall have power to levy a water frontage tax upon every lot, piece or parcel of land in front of which water pipes are or thereafter shall be laid. ('09 c. 174 § 1)

Historical.—"An act empowering city councils in cities of ten thousand inhabitants or less to levy a frontage tax assessment for the purpose of laying water mains and city water systems within their corporate limits, and to make contracts with other municipalities or water boards for the furnishing of water and laying of water mains in the streets of such cities of ten thousand inhabitants or less by such other municipalities or water boards." Approved April 13, 1909.

[765—]154. Same—Amount of tax—Lien.—That the annual tax or assessment shall not exceed ten cents per lineal foot of the frontage of such lot, piece or parcel of land and which shall be a lien upon such lot, piece or parcel of land and shall be collected as hereinafter provided. That no property shall be subject to such tax or assessment after ten such annual tax or assessments have been levied against it. ('09 c. 174 § 2)

[765—]155. Same—Petition of property owners.—The common council of such cities shall proceed upon the petition of the property owners of the property fronting on the street of the proposed main, but the consent and signature of three owners of any platted block shall be sufficient. ('09 c. 174 § 3)

[765—]156. Same—Notice—Power of council—Assessment.—The common council shall thereupon give ten days' notice by publication of such proposed tax levy of such proposed water frontage

tax, and if a majority of the common council are of the opinion that such improvement is necessary and proper, the common council shall make an assessment upon the property which fronts upon the proposed water main; such assessment shall state the amount per foot levied, the name of the owners or reputed owners and the lot and block number. ('09 c. 174 § 4)

[765—]157. Same—Delinquent taxes—Annual statement—Extension of tax, etc.—That the common council shall make up, on or before the first day of October in each and every year, a detailed statement, duly certified to by the mayor and city clerk of such city, under the seal of said city showing the delinquent frontage taxes for the year preceding and ending on the first day of January following, which statement shall be transmitted by the city clerk to the county auditor of the county as delinquent taxes for collection. Thereupon it shall be the duty of the county auditor to extend the same on his rolls against the property in said statement as aforesaid for collection, and if not paid within the time prescribed by law then the same shall become a lien upon the real estate, and said real estate shall be subject to all the penalties and charges as property delinquent for taxes. ('09 c. 174 § 5)

[765—]158. Same—Moneys collected—Water fund.—All moneys collected or paid into the treasury of the county on account of such assessments or taxes shall be paid over from time to time to the respective cities wherein such frontage taxes is levied for the use of the water fund, and all moneys that are collected shall be kept separate and distinct and be put into the water fund to be kept by the respective cities separate and distinct in maintaining, constructing, repairing or leasing water systems within their corporate limits. ('09 c. 174 § 6)

[765—]159. Same—Contracts for water from other cities—Mains—Provisions applicable.—The common council of any city containing a population of ten thousand inhabitants or less may enter into contracts and agreements with any adjoining municipality, which has water system, water commission or water board, for the furnishing of water to the citizens of said city, containing ten thousand inhabitants or less, for the laying of water mains in the streets of such city, containing ten thousand inhabitants or less, by the said adjoining municipality, the water commission or water board thereof. And upon the making of such agreement or contract, or upon permission to that effect being given by the common council of such city, containing ten thousand inhabitants or less, the said adjoining municipality or its water board or commission may lay said water mains, under the direction of said common council, and furnish water to the citizens of said city containing ten thousand inhabitants or less. All the provisions of this act relative to frontage tax, petitions, notice, tax levy, assessment, statements relative to delinquent frontage taxes, the collection thereof, and the other provisions hereof shall be followed in such cases the same as if such water was furnished directly by said city, containing ten thousand inhabitants or less, from a water plant owned and controlled by said city itself. ('09 c. 174 § 7)

[765—]160. Water works and light plants—Power to acquire—Bonds—Condemnation.—Whenever at any general or special election, held in any city in the class hereinafter mentioned, the electors thereof by an affirmative vote of three-fifths of the legal voters, voting thereat, so determine, each city in the state of Minnesota, having ten thousand inhabitants or less, whether organized or existing under special or general law, or under and by virtue of the provisions of chapter three hundred fifty-one of the General Laws of

Minnesota for the year eighteen hundred and ninety-nine, as amended, is hereby authorized and empowered, in addition to all powers to issue bonds conferred upon it by its city charter, or by virtue of any general or special law, and in addition to all other bonds that it is by law authorized to issue, to issue its bonds in the aggregate amount hereinafter mentioned to be determined as hereinafter set forth, and to dispose of the same as hereinafter provided, and to use the proceeds thereof for the purpose of constructing, extending, enlarging, improving or purchasing municipal water works or light plants or either or all thereof, but in each case the said city may either acquire such existing water works system or electric light plant by purchase at such price, not exceeding its fair value, and on such terms as may be agreed on between said city and the owner thereof, or if such arrangement as to price and terms cannot be arrived at, may acquire such system by condemnation thereof. The procedure in the event of condemnation, shall be that prescribed by chapter 41, Revised Laws of 1905, or that prescribed by such city's charter, and the purchase price of said plant or system as so fixed by agreement or condemnation may be paid out of the proceeds of the bonds by this act authorized to be issued, and the balance of the proceeds, if any, may be used for the extension, enlargement or improvement of such plant or plants so acquired. ('09 c. 43 § 1)

Historical.—"An act empowering cities however organized, having a population of 10,000 or less, to construct municipal waterworks, or light plants, or both, or to acquire by purchase or condemnation waterworks or light plants already in existence, and to extend, enlarge, or improve the same, and to issue bonds for any or all of such purposes." Approved March 5, 1909.

[765—]161. Same—Powers of council—Submission to voters—Notice.—Whenever the city council of any such city, at a regular called meeting thereof, determine by resolution, duly adopted, by a three-fourths majority vote of all the members thereof, entered upon the minutes of the proceedings; that it is necessary either to acquire by purchase or condemnation, water works or light plants already in existence, or construct, extend, enlarge, or improve a municipal water or light plant, or either or all thereof, as the case may be, and that the funds in the treasury of said city available therefor, are not sufficient for such purpose, and that it is necessary to issue the bonds of such city in an amount to be determined by such city council in such resolution, not exceeding in the aggregate seven per cent of the assessed valuation of the taxable property of such city according to the last preceding assessment thereof, such city council may cause the proposition of issuing such bonds, in such an amount, to be submitted to the electors of such city at any general or special election to be held therein. Such resolution shall fix the time of said voting, if the same be submitted at a special election, which shall be not less than ten days after the date of the adoption of said resolution, and said special election shall be conducted as provided by law for general elections. The notice of such election at which said proposition is to be submitted, whether general or special, shall contain a statement, of the total amount of the principal of said bonds, and the purpose to which it is proposed to put the same. ('09 c. 43 § 2)

[765—]162. Same—Election, how conducted—Ballots, etc.—In voting upon such proposition those in favor of issue of bonds, shall have written or printed, or partly written and partly printed on the ballots used, the words "Issue of Bonds," "Yes," "No," and each elector voting on such proposition shall make a cross mark thus: (X) in one of the two spaces left for the purpose, upon the margin of the ballot used as provided in section twenty-eight chapter four

General Laws of Minnesota for 1893. The elector desiring to vote in favor of issuing bonds shall make a cross mark thus: (X) in the place left opposite the word "Yes," and the elector desiring to vote against the issuing of bonds, shall make a cross mark thus: (X) in the place so left opposite the word "No," and no ballot shall be counted on said proposition except those having said cross mark (X) opposite one only of said words "Yes," "No." The voting shall be conducted in the same manner as provided by law for the election of city officers, and shall be counted, returned and canvassed in the same manner, as provided by law for the election of city officers, and if upon such canvass it appears that a three-fifths majority of all the votes cast upon said proposition, shall be in favor of issuing bonds, the same may thereafter be issued in accordance with the provisions of this act, but not otherwise. ('09 c. 43 § 3)

[765—]163. Same—Bonds, when issued—How disposed of.—Whenever the electors of any such city at any such election shall declare in favor of issuing the bonds of such city hereunder, such city, and the city council thereof, is hereby authorized and empowered by an affirmative vote of three-fourths of the members of such city council, to issue the bonds of said city, in an amount to be determined by said city council, not exceeding in the aggregate the amount contained in the said proposition, adopted by the electors at said election, and such city council may dispose of the same, as hereinafter provided, and may use the same and the proceeds thereof for any of the purposes which the resolution provided for in section two [765-161] of this act shall specify, but not otherwise. ('09 c. 43 § 4)

[765—]164. Same—Terms of bonds, etc.—Such bonds shall be of such denomination as the city council may determine, shall be payable at such place as the city council may designate; at such times, not less than ten nor more than thirty years from date of issue; shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as such city may deem best, and shall draw interest payable semi-annually, at such place as the city council may determine, at a rate not exceeding five per cent per annum, to be represented by coupons attached to said bonds. Said bonds and coupons shall be signed by the mayor and attested by the clerk, or similar officer, or recorder of such city, and the corporate seal of the city shall be imprinted upon said bonds. ('09 c. 43 § 5)

[765—]165. Same—Bonds, how disposed of.—The city council of any such city shall have authority by a majority vote of all its members to dispose of such bonds in such manner as in the judgment of said city council shall best subserve the interest of the city, but it shall not negotiate the sale, dispose of, nor sell said bonds, nor any of them; at less than their par value and accrued interest, and neither the said bonds or the proceeds of the sale thereof shall be used for any other purpose than specified in said resolution contemplated by section two [765-161] hereof, and such purpose shall be again distinctly stated in said resolution of said council authorizing the issuance thereof. ('09 c. 43 § 6)

[765—]166. Same—Lien of bonds, etc.—The principal and interest of any such bonds so issued is hereby declared to be a first lien upon the municipal water works or light plants respectively constructed or acquired by means of said bonds or the proceeds of the sale thereof, and the faith and credit of such city issuing the same is hereby irrevocably pledged to the payment thereof, any provision of the law of this state, whether general or special, or by virtue of said chapter three hundred and fifty-one, as amended, of

the General Laws of Minnesota, for the year eighteen hundred and ninety-nine, to the contrary notwithstanding. ('09 c. 43 § 7)

[765—]167. Cities owning electric light plants—Extension of lines into certain villages.—That the common council of any city, in this state, having a population of ten thousand or less and owning and operating an electric light plant, are hereby authorized and empowered to extend the lines, wires and fixtures of its plant to and into any incorporated village lying within three miles of the limits of said city, with the consent of the council or other governing body of said village and to appropriate and expend money therefor. ('09 c. 218 § 1)

Historical.—"An act to authorize and empower the common council of any city having a population of ten thousand or less, in this state, and owning and operating an electric light plant, to extend such line to and in any point and village lying within three miles of the limits of said city; to appropriate and expend money therefor and make all necessary contracts and arrangements therefor and in connection therewith; to collect from consumers furnished with light or current thereby, such compensation as said council may deem proper; and to authorize such village or villages to grant such city the use of its streets and public grounds for the extension, operation and maintenance of such line." Approved April 17, 1909.

[765—]168. Same—Powers of city council—Contracts.—Said common council is also authorized and empowered to make such contracts and arrangements with person or persons, village or villages to and in which their electric light line may be so extended, necessary for the proper extension, operation and maintenance of said line, the collecting of compensation for the light or current, and service that may be furnished thereby, and for the reimbursement of the cost of such extension. ('09 c. 218 § 2)

[765—]169. Same—Powers of village council—Use of streets—Contracts.—That the village council or other governing body of any village to which an electric line may be extended pursuant to this act, are hereby authorized and empowered to grant to such city making such extension, the right of the use of the streets, alleys, and other public grounds of such village for the erection, operation and maintenance of such line for said purpose, and to make contracts and arrangements for the lighting of such village thereby and the payment therefor. ('09 c. 218 § 3)

[765—]170. Inspection of milk, dairies, etc.—The council of every city in this state, having 10,000 inhabitants or less, may provide for the inspection of milk sold within its limits, and of dairies, and of dairy herds kept for the production of such milk. ('09 c. 354 § 1)

Historical.—"An act to provide for the inspection, in cities of 10,000 inhabitants or less, of dairies and dairy herds, the products of which are sold in such cities, and making the violation of this act a misdemeanor." Approved April 21, 1909.

[765—]171. Same—Dairy inspector—Appointment—Fees.—The council may appoint a competent licensed veterinarian as city dairy inspector for such city, and said dairy inspector shall once a year inspect all dairies and dairy herds kept for the production of milk sold within the limits of such city. For each inspection he shall be entitled to a fee of 25 cents for each animal inspected, to be paid by the owner of such animal. The dairy inspector of such city shall be appointed at the first meeting of the city council after the municipal election in such city and shall hold office until his successor is appointed. ('09 c. 354 § 2)

[765—]172. Same—Certificate of sanitary condition.—If the inspector finds that such dairies or dairy herds are in a sanitary and wholesome condition he shall issue to the owner of such dairy or dairy herd a certificate setting forth such facts, which certificate

shall be and remain in force for a period of one year after its issuance, and no longer. ('09 c. 354 § 3)

[765—]173. Same—Sale of milk without certificate, etc.—Penalty.—Every person who sells or attempts to sell in such city any milk produced by a dairy or dairy herd without having a certificate to the effect that such dairy or dairy herd has been inspected within the preceding year and is in a sanitary, wholesome and healthy condition, shall be guilty of a misdemeanor. ('09 c. 354 § 4)

PROVISIONS RELATING TO VILLAGES AND CITIES.

767. Gifts to municipalities.

In general.—A village had a right, under this section, to accept the grant from a railroad company of part of its abandoned right of way, and could afterwards sell the same. *Jenkins v. Hanson*, 101 Minn. 298, 112 N. W. 216.

768. Damages—Notice of claim—Limitation.

Validity.—The Legislature may legally provide that 10 days' written notice to the city, prior to the accident, of the existence of a defect in a street or sidewalk, shall be a condition precedent to liability for damages caused thereby to individuals. *Schigley v. City of Waseca*, 106 Minn. 94, 118 N. W. 259, 19 L. R. A. (N. S.) 689.

To What Actions Applicable.—Under the rule that, where the title of an act is restrictive, legislation under such title must be confined within the same limits, *Laws 1897, c. 248*, applied only to actions to recover damages for injuries to the person. *Megins v. City of Duluth*, 97 Minn. 23, 106 N. W. 89.

To what persons applicable.—*Laws 1897, c. 248*, did not apply where the relation of master and servant existed, and the injury complained of was received by an employé of the municipality in the due performance of his duties. *Following Kelly v. City of Faribault*, 95 Minn. 293, 104 N. W. 231. *Pesek v. City of New Prague*, 97 Minn. 171, 106 N. W. 305.

Home rule charter.—The notice was sufficient, where it complied with the provisions of defendant's home rule charter, but not with the general law (*Laws 1897, c. 248*), enacted before the adoption of the charter. *Following Grant v. Berrisford*, 94 Minn. 45, 101 N. W. 940, 1133. *Peterson v. City of Red Wing*, 101 Minn. 62, 111 N. W. 840.

See note under section 751.

[773—]1. Power to regulate transient merchants.—That every city or village of the State of Minnesota, whether incorporated under a Home Rule charter or a general or special law of this state, in addition to all other powers given such city or village by any law of this state, shall have power by ordinance to regulate, control and license transient merchants, and to provide for the punishment of persons violating such ordinances. ('09 c. 84 § 1)

Historical.—"An act empowering cities and villages to regulate, control and license transient merchants and to provide for the punishment of violations of ordinances enacted pursuant to such power." Approved March 19, 1909.

774. Deposit of public funds.

See section [54—]1.

775. Roads outside city or village.

Curative.—See *Laws 1905, c. 107*, "An act to legalize the action of any village council in this state which has heretofore made or agreed to make an appropriation out of the village funds in aid of building any bridge located outside of the corporate limits of such village." Approved April 5, 1905.

[775—]1. Annexation of territory to certain cities and villages having 10,000 inhabitants or less—Ordinance.—That whenever the majority of the owners of any property which has been platted into lots and blocks or outlots, or the owner of any tract, piece or parcel of land abutting upon any incorporated city or village having ten thousand inhabitants or less, whether such city or village is incorporated under general or special laws, shall petition the city or village council to have such property annexed to the city or village, the city or village council may by ordinance declare the same to be an addition to such city or village and thereupon such territory shall

become a part of such city or village as effectually as if it had been originally a part thereof. (Laws 1905, c. 220, § 1, as amended by Laws 1909, c. 383, § 1.)

Historical.—"An act to amend chapter 220 of the General Laws of 1905, entitled 'An act relating to the addition of territory to all incorporated cities containing ten thousand inhabitants or less,' and making the same applicable to all villages." Approved April 22, 1909.

[775—]2. **Same—Duty of council—Act supplementary.**—It shall be the duty of the council of any city or village adding territory under this act to cause a certified copy of the ordinance aforesaid to be recorded and filed in the office of the register of deeds of the county in which such city or village is located in the same manner as city or village charters are filed and recorded under the general laws of this state. Provided, that this act shall be construed to be supplementary to any other law providing for the annexation of territory to villages and cities of less than 10,000 population, and not as repealing such law. (Laws 1905, c. 220, § 2, as amended by Laws 1909, c. 383, § 2.)

[775—]3. **Annexation of territory to certain cities and villages.**—Any territory containing a population of not less than 75 persons, and not included in any incorporated city or village, but adjoining any city or village now or hereafter existing under the laws of the state of Minnesota, and no part of which territory is more than one and one-half miles from the present limits of the city or village which it adjoins, may be annexed to such city or village and become a part thereof, as follows: ('09 c. 113 § 1)

Historical.—"An act providing for the addition of territory to cities and villages." Approved March 27, 1909.

Section 7 repeals inconsistent acts.

[775—]4. **Same—Petition for election.**—Five or more of the legal voters residing within such territory may petition to the governing body of such city or village to call an election for the determination of such proposed annexation. The petitioners shall first cause to be taken a census of the resident population of said territory, and if found to be 75 or more, the petition shall be presented to the said governing body within four weeks thereafter. It shall set forth the boundaries of such territory, the quantity of land embraced therein and the number of actual residents thereon. It shall be verified by the oaths of at least three of the petitioners, declaring that such census was accurately taken within four weeks and that the statements within the petition are true. ('09 c. 113 § 2)

[775—]5. **Same—Duty of governing body.**—Such governing body shall receive such petition and may in its discretion cause a copy thereof, with a notice attached thereto, fixing a time and place for holding an election, to be posted in three public places within such territory. The time for holding the election may not be less than ten nor more than thirty days after such posting, and the place, within the limits of such territory. ('09 c. 113 § 3)

[775—]6. **Same—Election, how conducted—Ballots.**—Said governing body may also appoint three inspectors, residents of said territory, who shall act as judges of said election and conduct the same, so far as practicable, in accordance with the laws regulating the election of town officers. Only voters residing within said territory shall be entitled to vote. The ballot shall bear the words "For annexation, Yes, No," with a space after each of the last two words, in one of which the voter shall make a cross to indicate his choice. Immediately after such election the inspectors shall canvass the ballots and forthwith make and file with the city or village clerk or recorder of such city or village, a certificate stating the time and place of holding said election, that they have canvassed the

ballots cast thereat, and the numbers cast for and against said proposition. The certificate shall be signed and verified by all of said inspectors to the effect that the statements therein are true. ('09 c. 113 § 4)

[775—]7. **Same—Duty of city or village clerk, etc.**—Such city or village clerk or recorder shall attach said certificate to the original petition with a copy of the resolution appointing said inspectors and the original proofs of posting of the election notices, and file the whole as one document in his office. If the certificate shows that the majority of votes cast were in the affirmative, he shall forthwith make and transmit to the secretary of state a certified copy of said document to be filed as a public record, and shall also transmit to the county auditor of the county in which such city or village is situated a certified copy of said document to be filed as a public record and thereupon the annexation of said territory to said city or village shall be deemed complete. If the certificate shows that the majority of votes cast were in the negative, no subsequent petition shall be entertained within two years next after said election. ('09 c. 113 § 6)

[775—]8. **Water, light, power and building commission.**—There may be created in every city and village in the State of Minnesota having a population of less than ten thousand inhabitants, a water, light, power and building commission, with powers and duties as hereinafter provided. ('07 c. 412 § 1)

Historical.—"An act to authorize the creation of water, light, power and building commissions in all cities and villages having a population less than ten thousand in the state of Minnesota." Approved April 25, 1907.

By section 10 of said act all acts and parts of acts inconsistent with the provisions thereof are repealed.

[775—]9. **Same—Population, how determined.**—In determining the population of any such municipality, the last census taken therein and by authority of the State of Minnesota shall be conclusive as to the population thereof, for the purpose of this act. ('07 c. 412 § 2)

[775—]10. **Same—Appointment—Term.**—Said commission shall consist of three members and shall be appointed by the common council of said city or village, as the case may be, and when first created one shall be appointed for the term of one year, one for the term of two years, and one for the term of three years, and all said commissioners shall hold their office until their successors are appointed and qualified by subscribing to an oath that he will faithfully and impartially perform the duties of this office. ('07 c. 412 § 3)

[775—]11. **Same—President—How appointed.**—There shall be appointed each year thereafter by the said council one member of the said commission whose term of office shall be for three years, and each member of said commission shall be president of said commission during the last year of the term for which he is appointed. ('07 c. 412 § 4)

[775—]12. **Same—Secretary—Duties and powers—Bond—Compensation.**—The village recorder or the city clerk, as the case may be, shall be the secretary of the said water, light, power and building commission and shall keep an accurate record, in books kept by him for that purpose, of all the proceedings and business transactions of said commission and he is also empowered and it is hereby made his duty to collect water, light and rent charges from patrons for the said city or village as the case may be, and at once pay the same into the treasury of said municipality and he shall make a detailed statement of the same at the regular monthly meeting of said

commission, which shall be held on the first Tuesday of each month. He shall be furnished by said municipality with all the necessary books and stationery to properly perform the duties of his office, and he shall be required to furnish a corporate bond running to such municipality, in such amount to be fixed by said commission, conditioned that he will faithfully perform all the duties of his office as is required of him by law and promptly pay over to the treasurer of said city or village, as the case may be, all moneys and deliver up all property to the council of said city or village, all property belonging to said municipality, that he may have in his possession. Said bond shall be approved by the said commission and filed with the city or village treasurer, as the case may be. The said recorder or clerk's compensation, as the case may be, shall be fixed by the said commission not to exceed twenty-five dollars per month, as compensation for services as secretary of said commission, which shall also be paid out of the treasury of the said municipality. ('07 c. 412 § 5)

[775—]13. **Same—Powers of commission.**—Said commission shall have full, absolute and exclusive control of and power over the water, light, and power plant or plants, and all parts, attachments and appurtenances hereto, and all apparatus and material of every kind and description used or to be used in operating said plants, or any or either of them in all said municipalities aforesaid, including all other public buildings and halls owned by said municipality. They shall have the power and authority to operate the same and each thereof, and to extend, add to, change or modify the same, and to do any and all things in and about the same which they may deem necessary for a proper and economical operation of the same; provided, they shall not have the right to sell, lease, rent or in any way dispose of or incumber, or suffer, or permit, the said property or any part thereof, to come under the control of any other person or corporation whatever, provided, however, this shall not prevent the said commission from renting or leasing public halls or buildings for public use and entertainments. They shall have authority to buy all material, and employ all help necessary, or they may contract to extend, add to, change or modify said plants, buildings and halls, or any part thereof; they shall also have authority to buy all fuel and supplies, and employ all help necessary to operate said plants. ('07 c. 412 § 6)

[775—]14. **Same—Rates, how fixed—Warrants, how drawn—Publication of proceedings.**—Said commission shall fix all water and lighting rates to patrons, and rents for public halls and buildings as hereinbefore provided; provided, however, that the provisions of this act shall not impair the obligations of existing contracts; said commission shall audit all claims and the said recorder or clerk, as the case may be, shall draw his warrant upon the treasurer of said city or village for the amount allowed by said commission, and said warrant shall be countersigned by the president of the said commission, said commission shall publish in the official newspaper in said municipality at the end of each three months, all proceedings of said commission, together with the detailed statement of all the revenue received by said commission during the three preceding months. This act shall apply to all cases where the plant or plants or buildings are wholly or in part within, or wholly or in part without, the corporate limit of said municipality. ('07 c. 412 § 7)

[775—]15. **Same—Act, how availed of.**—Any city or village in the class mentioned in the title in this act which may wish to avail itself of the provisions of this act shall do so by resolution of its common council, expressly accepting the provisions hereof, which

resolution shall be adopted by a vote of a majority of all the members of said council, and be approved by the mayor of such city or the president of such village council, and this act shall not apply to any sub-city or village until the adoption, as aforesaid of such resolution. ('07 c. 412 § 8)

[775—]16. Same—Not to apply to cities under home rule charters.—This act shall not include or apply to cities now or hereafter governed under a charter adopted under and pursuant to section 36, article 4 of the constitution of this state, and the several acts of the legislature authorizing cities to adopt their own charter. ('07 c. 412 § 9)

[775—]17. Inspectors of gas, electric light, heat and water meters.—That in addition to the powers heretofore granted by law to the cities and villages in this state, which power shall not be limited or abridged by the provisions of this act, there is hereby granted to the council or governing board of any such city or village the power and authority to appoint inspectors of gas, electric light, heat and water meters. ('07 c. 343 § 1)

Historical.—"An act to empower cities and villages in this state to appoint inspectors of gas, electric light, heat and water meters, and to provide for their compensation." Approved April 23, 1907.

[775—]18. Same—Powers and duties—Term—Salary.—Such inspector shall have power and authority to, at all reasonable hours, inspect and read any gas, electric light, heat or water meters, whether the same be connected with a plant owned by such municipality, or owned or operated by any person, corporation or association in said city or village. Such inspection may be made either under the direction of the council or governing board of any such city or village, or at the request of any private owner or patron of any such gas, electric light, heat or water plant, and such inspector—when requested or required so to do—shall report upon the condition of any such meter and in reference to such other matters concerning the same as shall be required of such inspector, that the term of office of such inspector shall not be for a longer period than two years and that the said inspector's salary shall not exceed fifteen hundred dollars annually. ('07 c. 343 § 2)

[775—]19. Same—Compensation and term, how fixed.—The council or governing board of any such city or village shall have the power and authority to fix and determine the compensation to be paid to or received by such inspector, and his term of office. ('07 c. 343 § 3)

[775—]20. Extending water pipes on streets, etc.—Any city or village in the State of Minnesota now or hereafter owning and operating water works is hereby authorized to extend its water works and water pipes over, under and along any road, street, alley or public highway in this state, whether within or without the corporate limits of such city or village, and to supply water for a reasonable compensation to the occupants of property adjacent or accessible to the line so extended, whether within or without the corporate limits of such city or village; provided, however, this act shall not be construed as granting any rights to any city or village within the corporate limits of any other city or village; provided further, that such line shall be so extended as not to interfere with the safety or convenience of ordinary travel over said roads, streets, alleys and public highways. ('05 c. 228 § 1)

Historical.—"An act to authorize cities and villages in the state of Minnesota, now or hereafter owning and operating water works, to extend their water works and water pipes over, under and along any road, street, alley or public highway in this state, whether within or without the corporate limits of such city or village, and to supply water to the occupants of property adjacent or ac-

cessible thereto, whether within or without the corporate limits of such city or village." Approved April 17, 1905.

[775—]21. Park boards in cities and villages having less than 10,000 and more than 1,000 inhabitants.—There may be created, in the discretion of the governing board thereof, in every city or village in the state of Minnesota, having a population of less than ten thousand and more than one thousand inhabitants, a park board with powers and duties hereinafter provided. ('09 c. 441 § 1)

Historical.—"An act to authorize the creation of park boards in all cities and villages having a population of more than one thousand and less than ten thousand in the state of Minnesota." Approved April 22, 1909.

Section 7 repeals inconsistent acts.

[775—]22. Same—Population, how determined.—In determining the population of any such municipality, the last census taken thereby by authority of the state of Minnesota or of the United States government shall be conclusive as to the population thereof for the purposes of this act. ('09 c. 441 § 2)

[775—]23. Same—Board, how constituted and appointed, etc.—Said board shall consist of three members and shall be appointed by the mayor of the city or president of the village council and confirmed by the common council of said city or village; and when first created one shall be appointed for the term of one year, one for the term of two years, and one for the term of three years, and said members shall hold their offices for the term of three years and until their successors are appointed and qualified; and each member so appointed shall qualify within ten days after notification of his appointment by subscribing an oath that he will faithfully and impartially perform the duties of his said office, and shall file his said oath in the office of the village recorder or the clerk as the case may be. There shall be appointed each year thereafter by said council one member of said board whose term of office shall be three years, and each member of said board shall be president thereof during the last year of the term for which he is appointed. ('09 c. 441 § 3)

[775—]24. Same—Powers and duties.—Said park board shall have full, absolute and exclusive control of, and power over, all real estate now owned or hereafter acquired by said municipality and set apart for park or boulevard purposes therein or in adjoining territory, and all public property used therein or therefor. Said board shall have power and authority to maintain the same, and to beautify and improve any and all such lands and the approaches thereto for the benefit of the general public; to erect and construct therein such roadways and paths, buildings, fountains, toilet rooms, or other improvements necessary to meet the requirements of the visiting public; to buy all necessary material and fuel required to carry out the provisions of this act; to make such reasonable rules and regulations for the government of the same as may be deemed necessary and proper; to employ such help in and about the conduct of such parks and boulevards as may be found necessary; to employ a secretary at a salary of not exceeding five hundred dollars per annum, whose duty it shall be to keep a full and complete record of all the transactions of said board, attend its meetings, and do and perform such other duties as may from time to time be required of him by said board; to employ an attorney if found necessary to assist the board at a salary of not exceeding five hundred dollars per annum; to fix the compensation of any and all persons employed by said board; to audit and allow all just claims for labor, services or material furnished by order of said board, and endorse its approval of such claims thereon when allowed, which claims when so audited and allowed and endorsed

shall be presented to the council of said municipality for payment and paid by said municipality as other claims are paid; provided, said board shall not have the right to sell, rent, lease, or in any other way dispose of or incumber, or suffer, or permit the said property, or any part thereof, to come under the control of any other person or corporation whatever. Said board shall also have power and authority to receive on behalf of said municipality any proper donation of statuary, shrubbery, trees, material, or other personal property for use in and about the said parks and boulevards. Said board shall make detailed report of all its doings and proceedings to the council at least once in three months. ('09 c. 441 § 4)

[775—]25. Same—Compensation of members—Membership in other boards.—Said members of said board shall serve without compensation except such as may be provided by the council of said municipality, which council shall in no case fix any greater compensation for service of each of such members than one hundred dollars per annum, which said salary, if any be allowed, shall be paid by the municipality as other claims are paid by it; and nothing in this act shall be construed so as to prevent any person from holding membership in said board, and also in the light, water and power commission. ('09 c. 441 § 5)

[775—]26. Same—Act, how availed of—Not applicable to cities and villages under home rule charters.—Any city or village mentioned in the title of this act which may wish to avail itself of the provisions hereof shall do so by resolution of its council, expressly accepting the provisions hereof, which resolution shall be adopted by a majority of all the members of said council and approved by its presiding officer, and this act shall not apply to any such city or village until the adoption as aforesaid of such resolution. This act shall not be construed as in any manner superseding, repealing, amending or qualifying the provisions of any home rule charter heretofore adopted by any city or village under the laws of this state, and this act shall not in any manner apply to any such city or village. ('09 c. 441 § 6)

[775—]27. Boulevards, power to construct or rebuild—Resolution of council.—Whenever the village council of any village, incorporated under the General Laws of this state, or the common council of any city having a population of ten thousand inhabitants or less, incorporated under the General Laws of this state, shall deem it necessary and expedient to construct or rebuild any boulevard in said village or city, they may, acting on their own motion, and if a majority of the owners of the property fronting on the street or streets where it is proposed to construct a boulevard, shall petition the village council or common council of any such city therefor, they shall adopt a resolution to that effect, which resolution shall specify the place or places where such boulevard shall be constructed, the width, the size and manner of construction thereof, and the time within which the same shall be completed, which shall not be less than forty days after the service of said resolution, as hereinafter provided. Said resolution shall contain the names of the owners of all lots, parts of lots, and parcels of ground fronting the street or streets where such boulevards are to be constructed. ('05 c. 330 § 1)

Historical.—“An act authorizing all villages incorporated under the General Laws of this state, and all cities having a population of ten thousand inhabitants or less, incorporated under the General Laws of this state, to construct boulevards and to assess the benefits thereof upon the lots or parcels of land adjoining the said boulevards, to make such assessments payable in three installments with interest, and authorizing such village or city to issue orders therefor bearing interest in accordance with said assessments.” Approved April 19, 1905.

[775—]28. **Same—Service of resolution.**—Such resolution shall be served upon the persons named in said resolution at least forty days prior to the time therein named for the completion of said boulevard in the following manner:

First—By causing a copy thereof to be handed to, and left with, each of the persons therein named who are residents of and within said village or city, and are actually therein.

Second—If any of the persons so named in said resolution are not residents of said village or city, or cannot be found therein, then said resolution shall be published in one issue of a newspaper regularly published in said village or city, in the English language, and having a general circulation therein, or in the designated official paper of said village or city.

Third—If there be no such newspaper published in said village or city, then such service and publication may be made by posting a copy of said resolution in at least three public places in said village or city, at least forty days prior to the time named therein for the completion of said walk or sewer.

Affidavits shall be made by the person serving or posting said resolution of the manner, time and place of serving or posting the same, and by the foreman, editor or publisher of such newspaper of the time and manner of publishing the same, and such affidavits shall be attached to said resolution and, with it, filed with the village or city recorder. Any and all such services, when made in accordance with the provisions of this act, shall for the purposes thereof, be deemed personal services of such resolution upon the persons named therein. ('05 c. 330 § 2)

[775—]29. **Same—Work, how done—Benefits, how ascertained and determined—Record—Assessment.**—If such work shall not be fully done, and said boulevard shall not be fully constructed or rebuilt in the manner and within the time prescribed in said resolution, then the village council or common council of said city may order the same to be done by the street commissioner, or commissioners of public works, or cause the same to be done by contract let to the lowest responsible bidder, the entire expense thereof to be paid out of the general (revenue) funds of said village or city. At any time within thirty days after said village or city shall have completed the construction of said boulevard as aforesaid, the village council or common council of such city shall adopt a resolution fixing a time and place when and where they shall hear testimony of all persons interested or affected and ascertain the amount of benefits to property fronting such boulevard by reason of the construction thereof, and such resolution shall be served on all the persons named in the resolution adopted under section one [775—27] of this act, and in the manner therein provided. At the time and place named in said resolution said village council, or the common council of said city, shall hear any and all testimony offered by or on behalf of all parties interested or affected by the construction of said boulevard and for said purpose the president of the council or other presiding officer is hereby authorized to administer oaths to witness. Thereupon by resolution, the village council, or common council of said city, shall determine the amount of benefits caused by said construction, to each lot, part of lot, or parcel of ground fronting the street or streets where such boulevard shall have been constructed or rebuilt as aforesaid; and a full and complete record thereof shall be made and kept by the village or city recorder in a separate book kept for that purpose, which record shall contain a description of the property benefited and charge with the construction of such boulevard, the amount of benefit determined in each case as aforesaid, and when so determined the

amount of each annual installment thereof; when transmitted to the county auditor of the county for assessment; the amount paid thereon and when paid. Such record to be used in making each annual levy and assessment, as in this act provided. The amount of (the) benefits to each lot, part of lot, or parcel of ground so determined as aforesaid, shall be and become a charge against the same and shall be assessed thereon, as (in) the case of county, city or state taxes in three annual installments. ('05 c. 330 § 3)

[775—]30. Same—Issue and sale of treasury orders—Form—Record.—If such assessments for either or any of the purposes aforesaid be not fully paid to the street commissioner, village or city treasurer, or other officer authorized by law to collect the same, within twenty days after said boulevard has been fully constructed or rebuilt, as aforesaid, the village council, or common council of said city, may issue, or cause to be issued, the orders of said village or city, on the treasurer thereof for the aggregate amount of the unpaid balance of each of said assessments, payable in three annual installments, each of which installments shall be represented by a separate order, bearing interest at a rate to be determined by said village or city council, not exceeding 6 per cent per annum, from their date until maturity, and payable as follows: One payable on or before the first day of June, of the year next following the issuing thereof; one payable on the first day of June of the second year next following; and one payable on the first day of June on the third year next following. Said orders shall be made payable to bearer, and the same may be issued, negotiated and sold by said village or city for not less than their par or face value. All said orders shall be in substantially the following form:

§, Dated at, Minnesota,, 19

The treasurer of the (village or city) of will pay to the bearer hereof the sum of dollars and cents on or before the first day of June, A. D. 19 , with interest thereon at the rate of per cent per annum from date hereof until maturity. This order represents one-third of the amount expended in the construction of a boulevard in said (village or city) in the year 19

A record of all said orders shall be made and kept by said village or city recorder, which record shall show the date same was issued, amount of order, date when due, to whom sold, amount sold for, and for what purpose the same was issued, when the same was paid, and the amount paid as shown by the treasurer's books. Books shall be provided for said purpose. ('05 c. 330 § 4)

[775—]31. Same—Tax levy—Duty of county officers—Payment before levy.—After the completion of said boulevard as aforesaid by said village council or common council of said city, said village council or common council of said city, shall annually, on or before the first day of October of each year, until the whole of said assessments have been levied as herein provided, cause a statement of the amount of one of the said three annual installments, with six per cent annual interest thereon computed, from the time of completion of said work to the first day of June following the making of said levy added thereto, to be transmitted, with the village or city taxes for that year, to the auditor of the county, and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection and payment thereof, and the same shall be enforced with, and in like manner, as city, county and state taxes are collected and payment thereof enforced. After the completion of said boulevard the owner or owners of said land adjoining the same, or interested therein, shall have the privilege of

paying all or any portion of the cost of construction thereof to said village or city at any time within twenty days thereafter, and before said levy has been made, and the amount so paid shall be deducted from the amount of said assessment. ('05 c. 330 § 5)

[775—]32. Same—Laws 1899, c. 49, repealed—Not to apply to certain cities or villages—Prior assessments not affected.—Chapter forty-nine of the General Laws of Minnesota for the year 1899, and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed. Provided, however, that this act shall not apply to any city or village of this state having a population of less than ten thousand operating under a special law or special charter. Provided, further, that this act shall not in any way affect any assessments heretofore made by any city or village or any assessments hereafter to be made by any city or village upon any contract made prior to the time when this act shall take effect. ('05 c. 330 § 6)

Laws 1899, c. 49, was repealed by R. L. § 5443.

[775—]33. Tax for fire department relief fund in certain cities and villages having less than 50,000 inhabitants.—The village or city council or other governing body of every village and city in this state that now or hereafter may have a population of less than 50,000 inhabitants, which has a regularly organized fire department, may, each year, at the time the tax levies are made for the support of the village or city, and in addition thereto, levy a tax of one-tenth of a mill on all the taxable property of such village or city. The tax so levied shall be transmitted to the auditor of the county in which the village or city is situated at the time all other tax levies are transmitted, and shall be collected and payment thereof enforced in like manner as state and county taxes are collected and the payment thereof enforced. The village or city treasurer, when the tax is received by him, shall pay the same over to the treasurer of the duly incorporated firemen's relief association of such village or city, if there is one organized with the consent of the governing body of such municipality, together with all penalties and interest collected thereon; but if there is no firemen's relief association so organized in any such village or city, or if any such association resign, be dissolved or removed, or any successor of such association resign, be removed or has heretofore resigned or has been removed as trustee of such money, then the treasurer of such municipality shall keep the money in a special fund to be disbursed only for the purposes authorized by this act. Provided, that the village or city council of any village or city in this state which now has or hereafter may have a population of less than 50,000 inhabitants is hereby authorized and empowered, when in its discretion it deems it necessary or desirable so to do, to levy on the taxable property of such village or city an additional amount not to exceed nine-tenths of one mill: such additional tax to be collected and disbursed as herein provided. ('09 c. 197 § 1)

Historical.—"An act to provide funds from taxation for pensions and relief, for members of municipal fire departments and their widows and orphans, in all villages and cities in this state that now or hereafter may have a population of less than 50,000 inhabitants, and providing for the disbursement and investment of such funds." Approved April 17, 1909.

[775—]34. Same—Board of trustees of relief association, how constituted—Funds, how disposed of, etc.—The board of trustees of every firemen's relief association of this state shall be composed of the following persons, to-wit: Four trustees elected annually by such firemen's relief from its own members and also the following ex officio members taken from the officers of the municipality in which the relief association is located, viz.: The mayor or president, the recorder or clerk, the treasurer and the chief of the fire

department thereof, and any such board of trustees of a duly incorporated relief association shall have exclusive control and management of all funds received by its treasurer under the provisions of this act, and all moneys or property donated, given, granted or devised for the benefit of said funds, and the funds received under the provisions of this act shall be kept in a special fund on the books of the secretary and treasurer of said association and shall never be disbursed for any purpose whatever except the following, viz.: (1st) For the relief of sick, injured and disabled members of any fire department in such village or city; (2nd) for the payment of pensions to disabled firemen and the widows and orphans of firemen; (3rd) for the payment of pensions to retired firemen pursuant to the laws of the state. Provided, that the funds received by any relief association from dues, fines, initiation fees and entertainments shall be kept in a fund called the general fund, and may be disbursed for any purpose authorized by the articles of incorporation and by-laws of said association. Provided, further, that said relief association is hereby authorized and empowered to invest its funds in such income paying properties and securities as the council of the village or city in which such organization is located shall from time to time, authorize. Provided, further, that none of the money raised by taxation as provided herein shall be paid to any firemen's relief association, or other trustee or officer, except the treasurer of the municipality wherein the same is levied, unless such firemen's relief association, or the treasurer thereof, or trustee authorized to receive the same, shall file a bond with the city clerk or village recorder, as the case may be, with sufficient sureties approved by the common council, or other governing body of such municipality, in double the amount received by virtue hereof, and shall from time to time, whenever required by such council or other governing body of such municipality, file a new or additional bond conditioned to safely keep all of said money and to disburse the same only for the purposes authorized by this act. ('09 c. 197 § 2)

[775—]35. Public wagon scales.—That any city containing not to exceed ten thousand inhabitants, or any village or borough in this state, is hereby authorized and empowered to maintain a public wagon scales therein as hereinafter provided. ('05 c. 286 § 1)

Historical.—"An act to authorize the establishment of public wagon scales and to regulate weighing thereon." Approved April 19, 1905.

Section 6 repeals inconsistent acts.

[775—]36. Same—Acquisition and maintenance.—The common council of any such municipality is hereby authorized and empowered to buy, establish and maintain public wagon scales in such municipality, and said council is hereby authorized and empowered to hire, buy and maintain scales already in use in said municipality, the same to be used and maintained as a public wagon scale in such municipality for the public use therein. ('05 c. 286 § 2)

[775—]37. Same—Rules and regulations—Weighmaster—Duties—Charges.—The common council of such municipality wherein such public scales are maintained shall have control of such scales and shall make such rules or regulations in regard to the maintenance and use of the same as they shall deem proper, and said council shall annually appoint a public weighmaster, whose duty it shall be to have charge of such scales and properly weigh all articles and commodities thereon as hereafter provided and give a statement in writing of the weight of such articles or commodities weighed thereon to the person applying to have such article weighed, and such statement shall be prima facie the correct weight of said articles or commodities, and the common council shall fix the

compensation of said weighmaster, which compensation shall be paid out of the treasury of such municipality, and shall, from time to time, fix the price to be charged for weighing any article or commodity thereon, and the weighmaster shall collect such charge at the time of weighing such article or commodity, and he shall at the end of each month pay all moneys collected by him for such charge into the treasury of the municipality and file with the recorder of such municipality a statement of the amount of such money collected. ('05 c. 286 § 3)

[775—]38. Same—Scales to be tested, etc.—Who may use.—Such scales shall be tested, stamped and sealed by the sealer of weights and measures, before being used, and as often thereafter as may be necessary. Any person either buying or selling any article or commodity by weight to be delivered in such municipality wherein such public scales are maintained may have the same weighed upon such public scales by paying the fee charged for weighing thereon. ('05 c. 286 § 4)

[775—]39. Same—Not to apply to certain cities.—Provided that this act shall not apply to any city having a charter which provides for a city weighmaster. ('05 c. 286 § 5)

[775—]40. Council may prohibit bucket shop—Penalty for violation.—The common council of any municipal corporation in this state may by ordinance prohibit the keeping or causing to be kept within such municipality any bucket shop, office, store, or other place wherein is conducted or permitted the pretended buying or selling of the shares of stocks or bonds of any corporation, or petroleum, cotton, grain, provisions or other products, either on margins or otherwise, without any intention of receiving and paying for the property so bought, or of delivering the property so sold, or wherein is conducted or permitted the pretended buying or selling of any such property on margins, or when the party buying any such property or offering to buy the same, does not intend actually to receive the same, if purchased, or to deliver the same if sold, and to punish any corporation or person, whether acting individually or as a member, or as an officer, agent or employé of any corporation, association or co-partnership, who shall keep, maintain or cause to be maintained any such bucket shop, office, store, within said corporate limits, by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding ninety days. ('07 c. 174 § 1)

Historical.—"An act authorizing municipal corporations to prohibit the maintenance of bucket shops, or agencies for the same, within their corporate limits." Approved April 13, 1907.

[775—]41. Same—Submission to voters—Petition—Notice—Ballots, etc.—Electors residing within the corporate limits of any such municipality, equaling or exceeding in number ten per cent of the vote cast in such municipality at the last general election, may present to the common council or board of trustees thereof a petition signed by them and containing a proposed ordinance, as authorized in section 1[775—40] of this act, and it shall be the duty of said common council, or board of trustees, to receive the same and to submit said proposed ordinance to the electors of said municipal corporation at the first general or special election occurring more than fifteen days after the receipt by it of such petition. The clerk of such municipal corporation shall give ten days' notice of the submission of said proposed ordinance to the electors of said municipality, by publishing same in some newspaper published in said municipality, or if no newspaper is published therein, then in some newspaper published in the county seat of the county in which such municipality is situated, more than ten days prior to

said election, and by posting same in three public places in said municipality at least ten days prior to said election. At said election said question shall be voted upon by ballot, which shall have printed thereon, "A proposed ordinance to prohibit the keeping of bucket shops. 'Yes. No.'" which vote shall be canvassed, returned and announced as other votes of such election. ('07 c. 174 § 2)

[775—]42. **Same—Adoption of ordinance.**—If a majority of the vote cast at said election upon said proposed ordinance favor the adoption thereof, said ordinance shall thereupon be in full force and effect and binding upon every person within the corporate limits of said municipality. ('07 c. 174 § 3)

[775—]43. **Same—When offense is committed.**—It shall not be necessary, in order to commit the offense defined in an ordinance adopted under the provisions of this act, that both the buyer and the seller shall agree to do any of the acts therein prohibited, but said crime shall be complete against any corporation, association, co-partnership or person thus pretending or offering to sell, or thus pretending or offering to buy, whether the offer to sell or buy is accepted or not. ('07 c. 174 § 4)

CHAPTER 10.

PUBLIC INDEBTEDNESS.

780. Limit of debt—Excess void.

In general.—The provisions of G. S. 1894, §§ 1095, 1639, limiting the indebtedness of municipal corporations to 5 per cent. of the assessed valuation of taxable property, did not apply to a city which had adopted a home rule charter under Laws 1903, c. 238. *American Electric Co. v. City of Waseca*, 102 Minn. 329, 113 N. W. 899.

784. Bonds, for what purposes.—* *

2. *Counties.*—In the case of counties, for the erection and furnishing of a court house and jail, or either of them; for the purchase of a poor farm and equipping the same with suitable buildings, tools and stock; for establishing morgues and hospitals; for laying out, opening, building and improving public highways in the nature of county roads; for laying out and opening steam traction roads or other special public highways authorized by law; and for the bridging of waters within the county or bordering thereon. (R. L. § 784, as amended by Laws 1907, c. 297, § 1.)

Historical.—"An act to amend sub-section 2 of section 784, Revised Laws of 1905, which authorizes counties to issue bonds for certain purposes." Approved April 22, 1907.

In the official publication "2 of section" after "sub-section" are omitted.

4. *School districts.*—In the case of school districts, including special and independent districts, whether lying within a city or village or not, for the purchase of sites for school houses, and for defraying the expenses incurred and to be incurred in building, rebuilding, remodelling, repairing and furnishing school houses, and installing heating, ventilating and plumbing plants in the same, and equipping the same with libraries, apparatus and other school furniture. (R. L. § 784, as amended by Laws 1909, c. 261, § 1.)

As to the powers of various municipalities to issue bonds for certain purposes conferred by the Session Laws of 1905, 1907 and 1909, see sections [793—]1 to [793—]162.

R. L. § 784, cited in *Wall v. St. Louis County*, 105 Minn. 403, 117 N. W. 611.

[785—]1. **Failure to advertise—Curative.**—Whenever any city of the fourth class, operating under a home rule charter, shall have