

SPECIAL LAWS

OF THE

STATE OF MINNESOTA,

PASSED DURING THE

WENTY-SECOND SESSION OF THE STATE LEGISLATURE,

COMMENCING JANUARY FOURTH, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-ONE, AND TERMINATING MARCH FOURTH, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-ONE.

2000 COPIES ORDERED PRINTED.

ST. PETER:
J. K. MOORE, STATE PRINTER.
1881.

CHAPTER 187.

AN ACT authorizing and requiring each town in Sibley county to support its own poor.

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

SECTION 1. That each town in the county of Sibley shall provide for and support all poor persons of the town, and the board of town supervisors of each town in said county shall have entire and exclusive superintendence of the poor of their respective towns.

SEC. 2. The electors of each town in said county shall, at their annual town meeting in each year, vote to raise such sum of money for the support of the poor as they may deem expedient, not less than one half ($\frac{1}{2}$) of one (1) mill on the dollar on all the taxable property of the town, unless the moneys in the town treasury belonging to the poor fund shall equal one (1) mill on the dollar of all the taxable property of said town, which facts the town clerk shall certify to the county auditor, and in case such certificate shall not be filed, the county auditor of said county shall at the time of making the grand tax duplicates of said county assess and levy upon the taxable property of each town in said county one half ($\frac{1}{2}$) of one (1) mill on the dollar for the support of the poor of said town.

SEC. 3. The moneys so raised shall be known as the "poor fund," and shall not be used for any other purpose than the relief and support of the poor.

SEC. 4. This act shall take effect and be in force on and after the first (1st) day of January A. D. one thousand eight hundred and eighty-two (1882).

Approved February 9, 1881.

CHAPTER 188.

AN ACT to authorize the city of St. Paul to purchase the franchises and property of the St. Paul Water Company, and creating the Board of Water Commissioners.

Whereas, by an act of the legislature of Minnesota, entitled "An act to incorporate the St. Paul water company," approved May twenty-sixth (26th), one thousand eight hundred and fifty-

seven (1857), and sundry acts supplementary thereto, and amendatory thereof, the said company have full power and authority given it to introduce water into the city of St. Paul, from any place or places situate in the county of Ramsey, and to lay water pipes in and through the street, avenues, lanes, and squares thereof, and to have full and exclusive right to lay pipes for conducting water unto any of the streets, avenues, lanes, alleys and squares of said city, and to adopt any other necessary means to furnish water to any inhabitants of said city, and by virtue of the several acts as aforesaid the said company have purchased lands and erected works for the purpose aforesaid, and whereas, the great increase of the business and population of the city of St. Paul, and the inadequacy of the supply of water now furnished by the said company to answer the wants of the said city, have rendered it expedient that the duty of supplying the said city with pure and wholesome water for all purposes should be undertaken and carried forward by the city of St. Paul, and that the property, rights and franchises of the said St. Paul water company should be purchased from said company, by said city, if the same can be accomplished by the payment of a fair and just compensation. Now, therefore,

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

SECTION 1. It is hereby made the duty of the judges of the district court of the second judicial district, or a majority thereof, whenever requested by the common council of the city of St. Paul, to appoint five competent persons, without regard to their residence, one of whom shall be a practical civil engineer and familiar with the erection and maintenance of water works, whose duty it shall be, after taking an oath to faithfully and honestly discharge the duties of their said appointment, to inquire into and report as to the efficiency of the general plan adopted by said water company to supply the city with water, what plan or system they would recommend, so as to furnish an adequate supply of water to all parts of the city, and the cost thereof, the propriety of the purchase of the St. Paul water company's property and franchises by the city of St. Paul, and such other facts as the common council of the city may order and direct, and for which services the said persons appointed as aforesaid shall be entitled to such reasonable compensation as the common council may order and direct.

SEC. 2. Upon the receipt by the common council of the city of St. Paul of the report of the persons named in the foregoing section in regard to said water works as hereinbefore provided for—if the same shall be deemed to be satisfactory—the common council of the city of St. Paul may open up negotiations with the St. Paul water company for the purchase of all of the property, rights and franchises of the said company; and if the common council, by a three-fourths vote of all the members, elect, with the approval of the mayor, and the said water company can and do

agree upon a price or sum to be paid by the city of St. Paul for all of the property, rights and franchises of said water company, that upon the payment, or securing to be paid, of the sum or price agreed upon by the city of St. Paul, to be paid to said water company, the said company shall forthwith, without further consideration, assign, transfer and convey to the corporation of the city of St. Paul all the rights, franchises, lands, property real and personal of every kind and description to said company belonging or in them vested, or to which they are entitled; and they shall also procure from the stock-holders of said company an assignment to the city of all the capital stock of said company, and the said St. Paul water company is fully authorized and empowered to make such transfer, assignment and conveyance, and the same, when so made, shall be complete and effectual for the transfer, assignment and conveyance to the corporation of the city of St. Paul, as well of said capital stock by the stockholders thereof, as of said rights, franchises, lands and property; and all certificates of said capital stock shall be forthwith, on such transfer, delivered up to the treasurer of said city, and from the time of said transfer of said certificate shall have no validity in the hands of any person or persons other than the city of St. Paul.

SEC. 3. That the city of St. Paul is hereby authorized to accept the said property—the same to be held as hereinafter directed—and to take and convey from the sources of supply now used by the said St. Paul water company, or which they are empowered to use, and from any other source, sufficient water to supply the city of St. Paul with pure and wholesome water for all purposes.

SEC. 4. That all authority under this act, except as otherwise ordered, shall be exercised by a board of commissioners, to be known and designated as the board of water commissioners, to be appointed as hereinafter designated, and in pursuance of this authority the said commissioners may employ all proper engineers, surveyors, clerks and other agents or assistants necessary or convenient for accomplishing the purposes contemplated by this act, and may enter upon any land or water for the purpose of making surveys and examinations for the same.

SEC. 5. It is hereby made the duty of the judges of the district court of the second judicial district, or a majority thereof, whenever requested by the common council of the city of St. Paul by a resolution under the seal of the said city, and approved by the mayor thereof, to appoint four persons, resident and freeholders of said city of St. Paul, one (1) of whom shall be appointed to serve for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, and thereafter one (1) annually shall be appointed for four (4) years. These four (4) persons so appointed, together with the mayor of the city, who shall ex-officio be a member of the board, shall constitute the first board of commissioners. All vacancies, by resignation or otherwise, shall be filled by the judges aforesaid. The said board of water commissioners shall elect annually one of their number to be presi-

dent of the board, may make by-laws and regulations for their government not inconsistent herewith. A majority of the said board shall constitute a quorum, and all contracts and engagements, acts and doings of the said board within the scope of their duty or authority shall be obligatory upon, and be in law as binding as if done by the common council of said city.

SEC. 6. That the said board of water commissioners may prosecute any action in the name of the city of St. Paul, against any person or persons for money due for the use of the water; for the breach of any contract, express or implied, touching the execution or management of the works, or distribution of the water, or of any promise or contract made to or for them; and also for any injury or trespass or nuisance done or caused, or procured be done to the water courses, pipes, machinery or any apparatus belonging to or connected with any part of the works, or for any improper use or waste of the water.

SEC. 7. That each member of said board shall before entering upon the discharge of their official duties take and subscribe an oath of office, and give bond in the sum of five thousand dollars (\$5,000), to be approved by the common council, conditioned that he will faithfully and honestly discharge the duties of his office or appointment; and the said board shall require from the persons employed by them official bonds for the faithful performance of their duties; said bonds shall be approved by said board.

SEC. 8. The city of St. Paul shall take and hold the lands and real estate, rights, franchises and property of every kind so purchased from and transferred by the St. Paul water company as aforesaid, and any other lands, real estate or property necessary for the construction of any canals, aqueducts, reservoirs or other works for conveying or containing water, or for the erection of any buildings or machinery for laying any pipes or conduits for conveying the water into or through the said place, or to secure and maintain any portion of the works, and in general to do any other act necessary or convenient for accomplishing the purposes contemplated by this act.

SEC. 9. That the city of St. Paul may, from time to time, for the purpose of furnishing a full supply of water to the inhabitants of the city of St. Paul, extend its works; and as it shall from time to time so extend its said works, it may lay and draw water from any lake or creek by means of pipes, ditches, drains, conduits, aqueducts or other means for conducting water, so as to connect said lakes or creeks with its said works, and may erect and construct dams, bulk-heads, gates and other needed structures and means for controlling of water and its protection.

SEC. 10. Whenever at any time said board shall propose to extend its said works so as to connect with any of said lakes or creeks, it shall proceed as follows: Said board shall cause to be made a survey of the line along which it shall so propose to extend its said works, and of all lands or other property to be affected by flowage, drainage or otherwise, and for that purpose it may,

by its officers and agents, enter upon any lands, doing no unnecessary damage thereto.

After such survey shall have been made and such line located, it shall cause to be made a map showing the location of said line and the lands necessary to be taken for such extension, and of lands or other property to be affected by flowage, drainage or otherwise. Said map shall be acknowledged by the surveyor making the same and by the president of the board of water commissioners, and shall be filed as a record in the office of the register of deeds of the proper county.

And after making compensation, as hereinafter provided, to the owners of or persons interested in the lands so to be taken, said city shall have an easement in said lands designated on said map, for the purpose of making, constructing, altering, protecting and keeping in repair its said works, and using and operating the same.

SEC. 11. Said board shall make application to the judge of the district court of the county wherein the lands are situate, at chambers, for the appointment of three commissioners to assess the damage which the owners of or persons interested in the lands to be taken, or any other persons, may sustain by reason of the taking of such lands, or of the constructing, use and operating of such works. Notice of such application shall be given by publishing the same in a newspaper printed in the county wherein the lands are situate for at least twenty days before the day of making such application, which notice shall specify the name and place where such application will be made, the points between which it is proposed to extend said works, and state the date of filing the said map. At the time and place specified in said notice, said judge shall, upon proof to his satisfaction by affidavit of the due publication of said notice, appoint, by an instrument under his hand, three commissioners to assess said damages. Such commissioners shall make and subscribe an oath or affirmation that they will faithfully and fully examine the matter in question and make a true report thereon, according to the best of their skill and understanding. They shall appoint a time and place of meeting for the purpose of making such examination, and give notice thereof by publishing such notice in a newspaper printed in the county wherein the lands are situate, at least ten days before the day so appointed. On the day so appointed they shall proceed to view the lands so to be taken, and hear any evidence as to the damages which any person may sustain by the taking of the same, or by the construction, use and operating of the works of the city, and shall continue their examination until the same shall be completed.

They shall make a just and equitable estimate of such damages, and shall make and file in the office of the clerk of said court a report in writing, signed by them or any two of them, in which they shall state the amount which said city should pay to such person or corporation who may sustain any damage by reason of

the taking of such lands, or by reason of the constructing, use and operation of such works. Upon said report being filed, said city may pay in to the clerk of said court, for the use of the parties entitled thereto, the several amounts so awarded by said report, and thereupon said city may enter upon, possess, have, hold and enjoy said lands for the purposes aforesaid, and may proceed to construct, use and operate its said works and extension thereof. Said report and finding of said commissioners shall be final and conclusive as against all persons or corporations who shall not appeal therefrom within thirty (30) days after the filing of said report. Any person or corporation interested may appeal from said report and finding of said commissioners within the time aforesaid, to the said district court, by filing with the clerk of said court a notice of appeal specifying the nature of his or its claim and the amount thereof. Said city may likewise appeal within the time aforesaid from the finding of said commissioners in favor of any person or corporation, by filing with said clerk a notice of such appeal. The appeal shall be entered on the calendar for the succeeding term of said court, and shall be tried and judgment therein given, and the like costs allowed as in actions brought in said court. If the said city appeal, and the same or greater damages be recovered than shall have been awarded by the commissioners, it shall be liable for costs; if any other person or corporation be the appellant and do not recover greater damages than shall have been awarded by the commissioners, such appellant shall be liable for costs; but no appeal taker shall prevent said city from entering upon, possessing, having, holding and enjoying said lands as aforesaid, or from proceeding to construct, use and operate its said works or any part thereof. *Provided*, that upon such appeal being brought, the said city shall, in addition to paying said amount to said clerks as aforesaid, execute with two or more sureties to be approved by the judge of said court, a bond to the party with respect to whose claim the appeal is taken, in such sum as said judge shall direct, conditioned that if such party shall, by the final judgment in the matter, recover a greater sum than shall have been awarded by the report of said commissioners, the said city shall pay the excess to the clerk of the court for the use of such party. The payment by said city in to the said clerk of the amount so awarded by said commissioners, and in case of appeal of any excess recovered thereon, shall be full compensation to all persons and corporations for all dangers which may arise or accrue by reason of the taking of said lands as aforesaid, or of the constructing, use and operating said works. That the city is hereby authorized to purchase any lands, property or rights that may be affected by the construction or operation of said works, and may compromise or obtain releases of any pretended damages that may result from the construction or operation of said works.

Sec. 12. The clerk of said court shall attach together and keep on file in his office, the said notice of application with the affidavit of publication thereof, the appointment of said commissioners.

their oath or affirmation, the notice given by them, with an affidavit of the publication thereof; their report, a certified copy of any final judgment or appeal, and his certificate or certificates of the payment to him by said city of any moneys awarded to any person or corporation. A copy, certified by said clerk, of such papers, may be recorded in the office of the register of deeds of said county, and the papers so filed, said record, or a certified copy of either, shall in all cases be received as evidence of the facts therein stated.

SEC. 13. Said city is hereby authorized to re-survey the line of its works heretofore or hereafter to be located, and to re-locate said lines or any portion thereof, the same as though said line had not heretofore been located.

In case of making such re-survey and re-location, said city shall proceed in the same manner as is provided in sections ten (10), eleven (11) and twelve (12), of this act, and all the provisions of said sections shall in all respects be applicable to the proceedings for such re-survey and re-location, and the effect thereof, and of constructing, using and operating its works over said re-located line. It may join its proceedings for such re-survey and re-location with any proceedings for extending its said works. *Provided*, that if said city shall in the proceedings heretofore or hereafter to be had for locating its said line, have paid unto the said clerk the amount awarded to any person by the commissioners in said proceedings, the amount so paid in shall be deemed a payment to such person upon the amount which may be awarded in the proceedings hereby authorized.

SEC. 14. Any person who shall, willfully and without authority from said city, break, remove or damage any dam, bulkhead, gate, gate house, conduit, air vent, air box, air box cover, main pipe or culvert, or fill up or partially fill up any excavation, or raise or open any gate, break down or force open any doors of said works, executed, constructed and maintained for the purposes specified in this act, shall, on conviction thereof, be punished by imprisonment in the State prison for a term of not more than ten (10) years, nor less than one (1) year.

SEC. 15. Any person who shall, without authority from said city, lay any main or service pipe or take water therefrom, or open or shut any service cock or fire hydrant, or remove or unscrew wholly or partially, the cap from such fire hydrants, or enter, or form any connection with, or turn water into any tunnel excavated or used by said city for the purpose of laying its pipes, or who, being authorized by said board to take water from a main or service pipe into any specified building or upon any specified premises, or to be used for any specified purpose, shall, without authority from said board, use such water for any other than such specified purpose, or permit any other person to use the same for any other than such specified purpose, or to take the same out of such building, and such other person so using or taking such water, or who without lawful authority shall dig or excavate within six (6) feet

of any main pipe, gate, hydrant or blow-off of said works, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100.00), and not less than twenty-five dollars (\$25), or by imprisonment in the county jail for a term not more than three (3) months, nor less than twenty (20) days, or by both such fine and imprisonment.

SEC. 16. That if any person or persons shall maliciously or willfully divert the water, or any portion thereof, from the said works, or shall corrupt or render the same impure, or shall destroy or injure any canal, aqueduct, pipe, conduit, machinery, or other property used or required for procuring or distributing the water, such person or persons, and their aiders and abettors, shall forfeit to the said board, to be recovered in a civil action, treble the amount of damages (besides costs of suit.) which shall appear on trial to have been sustained, and all such acts are hereby declared to be misdemeanors, and the parties found guilty thereof may be further punished by a fine, not exceeding one thousand dollars, (\$1000) or by imprisonment, not exceeding one (1) year, or both, at the discretion of the court.

SEC. 17. That said board in behalf of the city of St. Paul, and all persons acting under their authority, shall have the right to use the grounds or soil under any road, railroad, highway, street, lane, alley or court, for the purpose of constructing, enlarging, improving or repairing the works contemplated by this act, on condition that they shall cause the surface of such road, railroad, highway, street, lane, alley or court to be restored to its original state, and all damages done thereto to be repaired.

SEC. 18. That for the purpose of paying the cost of purchasing the capital stock, property and franchises of the St. Paul Water Company, the common council of the city of St. Paul shall have authority, by a vote of two-thirds ($\frac{2}{3}$) of all members elect thereof, may issue the bonds of said city of St. Paul in such sums and amounts as the said common council may direct, to an amount not exceeding three hundred and fifty thousand dollars (\$350,000), which bonds shall bear interest at a rate not to exceed five (5) per cent. per annum, interest payable semi-annually, and redeemable in thirty (30) years from the date thereof, and for the purpose of enlarging, improving, extending and repairing the said works already erected, and of constructing such new works as are contemplated by this act, the common council of the city of St. Paul shall have authority to issue the bonds of the city of St. Paul to the amount of two hundred and fifty thousand dollars (\$250,000), bearing interest at a rate not to exceed five (5) per cent. per annum, payable semi-annually, which bonds shall not be disposed of for less than their par value. Such bonds shall be denominated as the St. Paul water bonds. *Provided however*, that in the event of the purchase of the water works, for a sum less three hundred and fifty thousand dollars (\$350,000), an additional amount of bonds may be issued for construction, so as to make up the difference between the

amount so paid for the purchase of said water works and three hundred and fifty thousand dollars (\$350,000).

SEC. 19. That the said board shall regulate the distribution and use of the water in all places and for all purposes where the same may be required, and from time to time cause to be assessed the water rate to be paid by the owner or occupant of each house or other building having or using water, upon such basis as they shall deem equitable; and such water rate shall become a continuance of lien, until paid, upon such house or other building, and upon the lot or lots upon which such house or other building is situate, and they shall erect such number of public hydrants and in such places as shall be ordered by the common council: *Provided*, That the expense of all public hydrants and water supplied to the city shall be paid out of the general fund of said city.

SEC. 20. That the said board shall have full power and authority to require payment in advance for the use of water furnished by them in or upon any building, place or premises, and in case prompt payment for the same shall not be made, they may shut off the water from such building, place or premises, and shall not be compelled again to supply said building, place or premises with water until said arrears, with interest thereon, together with the cost and expense of turning said water off and on, shall be fully paid.

SEC. 21. In addition to all other powers conferred upon said board they are authorized to and shall assess upon each and every lot in the city of St. Paul, in front of which water pipes are laid, an annual tax or assessment of ten cents per lineal foot of the frontage of such lot or lots, and which shall be a lien upon such lot or lots, and shall be collected as hereinafter provided.

SEC. 22. That the said board shall make up, on or before the first (1) day of December in each and every year, a detailed statement duly certified to by the president and secretary of the said board of commissioners, under the seal of said board, for the tax or assessment described in the foregoing section for the year preceding and ending on the first (1st) day of October, which statement shall be transmitted by the secretary of said board to the county auditor of Ramsey county as delinquent taxes, for collection, whereupon it shall be the duty of the county auditor to extend the same on his rolls against the said 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 on said real estate, and said real estate shall be subject to all the penalties and charges as property delinquent for taxes for county and State purposes. All moneys collected or paid into the treasury of Ramsey county on account of said assessment or tax shall be paid over from time to time to the city of St. Paul for the use of said board of water commissioners.

SEC. 23. The said board of water commissioners are hereby invested with full power to make and enforce such by-laws, regulations and ordinances as may be necessary to carry into effect the

object and intent of this act, and to supply any power or mode not already specified therein, and shall cause all such by-laws, regulations and ordinances to be entered into a book to be kept for that purpose, and signed by the president and secretary, which when so entered and signed shall be evidence in any court of justice.

SEC. 24. That the said board of water commissioners shall elect one of their own number president, some suitable person as secretary, and the treasurer of the city of St. Paul is hereby declared to be ex-officio treasurer of said board, and the city comptroller is hereby declared to be ex-officio the comptroller of said board. It is made the duty of the secretary under the direction of said board, to keep a set of books, which shall contain a full and complete statement of the condition and operation of the water works, of all moneys received and paid out by order of said board, and all debts due and owing said board for any cause whatever, together with an accurate account of all the expenses of said board—a semi-annual statement shall be made out and transmitted to the common council of said city. It is made the duty of the treasurer of said board to receive all moneys which may be paid into the treasury on account of said board of water commissioners, from the sale of bonds for water taxes, or from any sources whatever, and shall keep a detailed and exact account thereof in such manner as to show at all times the exact financial condition of said board, and the city comptroller shall keep regular books of account in which all moneys received or paid out for or on account of said board shall be entered; he shall countersign all warrants or orders drawn upon the treasury of said board by the president and secretary thereof, and other evidences of the indebtedness of the said board, and shall keep an exact account thereof, stating to whom and for what purposes issued, and shall keep an account with the treasurer of said board showing the amount received from all the different sources of revenue, and the amount disbursed under the direction of said board.

The books of said board shall be open to the examination of any person or persons appointed for that purpose, or to any committee of the common council or the comptroller of said city; said board shall also on the first (1) day of December in each year, make a report to the common council of said city, of the condition of the works under their charge and of the receipts and expenditures on account of the same. All contracts for materials, or for the construction of any part of said work which shall involve the expenditure of the sum of three hundred dollars (\$300) or more, shall be in writing, and in duplicate, and countersigned by the comptroller, one of which shall be filed with said comptroller; the other with the secretary of the board.

Provided, That in the event of any extraordinary and sudden injury to said works, whereby great damage might ensue by reason of any delay, the said board may cause the damage or break to be repaired without a contract, and in such manner as the said com-

missioners may deem for the best interests of the city. The salary of said water commissioners shall be the same as that of aldermen, and the salary and compensation of all the persons appointed and employed by said board shall be such as may be fixed from time to time by said commissioners, with the approval of the common council.

SEC. 25. That the said board of water commissioners shall establish such water rates as will at all times ensure to the city a sufficient income to pay the interest and to provide a fund to pay the principal upon all the bonds to be issued under this act, as well as to pay all the expenses and costs of the maintenance and repair of said water works, and it is hereby declared to be a misdemeanor; punishable by a fine not exceeding five hundred dollars (\$500), or by imprisonment in the county jail not exceeding one (1) year, or both at the discretion of the court, for said board knowingly to omit the property of any person from assessment for water rates, or to neglect or refuse to collect the same, or to give any person other or different credit for the use of water than that given the whole public. *Provided, however,* when meters are used for the purpose of showing the amount of water used, the water rent shall be collected on the first (1st) day of each and every month.

SEC. 26. That before any of the bonds authorized by this act are issued, the proposition to issue the same shall be submitted to a vote of the electors of the city of St. Paul, at the next general annual election in November, 1881. The ballot to be issued thereat shall have printed or written thereon, or partly written or printed the words "for the issue of water bonds," or the words "against the issue of water bonds"; said votes shall be canvassed in the same manner as votes for city officers are canvassed, and the result thereof announced, and if upon such official canvass it be found that a majority of the votes cast upon that subject are in favor of the issue of said bonds, then the issue of said bonds shall be lawful for all intents and purposes.

SEC. 27. This act shall take effect and be in force from and after its passage.

Approved February 10, 1881.

CHAPTER 189.

AN ACT to authorize an increase of the sewerage fund in the city of St. Paul.

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

SECTION 1. That the common council of the city of St. Paul is hereby authorized and empowered to issue bonds to an amount not