

CHAPTER 281.

AN ACT PROVIDING FOR THE DESIGNATION, ACQUISITION, LAYING OUT AND IMPROVEMENT OF LANDS IN THE CITY OF MINNEAPOLIS FOR A SYSTEM OF PUBLIC PARKS AND PARK WAYS, AND FOR THE CARE AND GOVERNMENT THEREOF.

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

SECTION 1. That the following persons, to-wit: C. M. Loring, H. F. Welles, D. Morrison, J. S. Pillsbury, O. C. Merriman, A. C. Haugan, J. C. Oswald, W. W. Eastman, George A. Brackett, Judson N. Cross, D. Bassett and A. C. Austin, together with the mayor, for the time being, of the city of Minneapolis, ex-officio, and the chairman, for the time being, of the standing committee on public grounds and buildings, and the chairman of the standing committee on roads and bridges of the city council of said city, ex-officio, are hereby appointed commissioners for the purposes specified in the title to this act, and to be accomplished in the manner and with the powers and subject to the restrictions of this act.

Upon filing a written acceptance of their appointment and an oath of office in the office of the city clerk of the city of Minneapolis, the said commissioners shall meet and organize by the designation of one (1) of their number as president, and one (1) of their number as vice president, and shall appoint a secretary, and shall appoint a president and vice president and secretary, from time to time, whenever vacancies may occur.

Upon effecting the said organization the said commissioners and their successors shall constitute a department of the city government of the city of Minneapolis, to be known and designated as the "Board of Park Commissioners of the City of Minneapolis." The said board shall make rules to govern its proceedings, and may meet from time to time as it may by rule or vote determine, and adjourn its said meetings. It shall adopt a seal, and shall make and publish from time to time, rules, ordinances and regulations for the government of its agents, servants and employes, and for the government and regulation of the parks and park ways which may be acquired under and pursuant to the provisions of this act. A majority of the members of said board shall constitute a quorum, but no action of said board designating or purchasing or leasing lands, creating a bonded debt, or filling vacancies in the board of park commissioners, shall be valid unless voted for by ten (10) members of said board; and a record of its proceedings shall be kept, and the said board shall make and publish in the official paper of the city, an annual report setting forth their general proceedings, and containing a statement of the receipts and expenditures of said board.

The twelve (12) persons hereinbefore named, and their successors, shall, with the three (3) ex-officio members above provided for, constitute a provisional board of park commissioners, to hold their offices until the annual city election in the year one thousand eight hundred

and eighty-four (1884), and until their successors shall be elected and qualified. At the annual city election in the year one thousand eight hundred and eighty-four (1884), there shall be elected by general ticket twelve (12) commissioners, four (4) of whom shall be elected for one (1) year, four (4) for two (2) years, and four (4) for three (3) years, who with the three (3) ex-officio commissioners above designated, shall constitute the board of park commissioners, and thereafter four (4) commissioners shall be elected annually, to serve for three (3) years, and all vacancies in the office of the above twelve (12) appointed, or of the elected commissioners, shall be filled by the remaining members of the board.

The said commissioners shall receive no compensation for their services, but may receive such sums for actual and necessary expenses incurred in performing their official duties as may be audited and allowed by the said board. The board of commissioners shall be authorized to employ and dismiss such attorneys, surveyors, agents and employes as may be necessary, and to fix the compensation of all its appointees and employes, which shall be payable from the fund hereinafter established for the purpose of this act, upon the order of said board, countersigned by the city comptroller.

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

SEC. 2 The board of commissioners herein appointed and their successors, shall have power and it shall be its duty to devise and adopt a system of public parks and park ways within the limits of and for the use of the city of Minneapolis, to designate the lands and grounds to be used and appropriated for such purposes, to cause the same to be surveyed, platted, and the plat thereof to be filed in the office of the city engineer, and upon obtaining title or the right of possession to the same or any part thereof, to take possession of, hold, govern and administer the same, and to lay out and improve the same, according to such plan as the said board may adopt for such purposes.

SEC. 3. The said board of commissioners and their successors shall have power, and it is hereby authorized, to obtain title for and in the name of the city of Minneapolis, to any lands so designated by it for the purposes of this act, by gift, devise, purchase or lease, and shall have power to accept and receive donations of money, property or lands for the use of the said city for the purposes contemplated in this act.

SEC. 4. The said board of commissioners shall have power and it is hereby authorized to condemn for the use of said city, any tract or tracts, parcel or parcels of land, or any interest therein which it may have designated as hereinbefore provided in the second (2d) section of this act, and when such condemnation shall have been completed and the lands paid for as herein provided, the title to such lands shall pass and be vested in fee simple in the said city. For the purpose of making and perfecting such condemnation, the said board of commissioners shall proceed in the manner following:

(1) The board of park commissioners shall appoint as many appraisers as there may be wards of said city, selecting one (1) from each ward, who shall be a disinterested free holder and qualified voter of said city, to view the premises and appraise the damages which may be occasioned by the taking of private property or otherwise in making said improvements. Said appraisers shall be notified as soon as practicable, by the secretary of said board to attend, at a time to be fixed by him, for the purpose of qualifying and entering upon their duties; and in case any such appraiser upon being so notified, shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to said city, not exceeding fifty dollars (\$50), and shall be liable to be prosecuted therefor before the municipal court of said city as in case of fines imposed for violation of an ordinance of said city; and the appraisers in attendance shall be authorized to appoint another appraiser or appraisers in place of any absentee or absentees aforesaid, selected in each case from the ward not represented, and possessing the qualifications aforesaid. In all other cases of vacancy the board of park commissioners shall fill such vacancy.

(2) 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 board of park commissioners.

(3) The said appraisers shall, with all reasonable speed, give notice by publication in the official newspaper of said city for at least ten (10) days, to the effect that a plat of the lands designated by the board of park commissioners has been filed and that the said appraisers will meet at a place and time designated by them, and thence proceed to view the premises, and appraise the damages for property to be taken, or which may be damaged by such improvement.

(4) At the time and place, according to said notice, the said appraisers shall view the premises and may hear any evidence or proof offered by the parties interested, and adjourn from day to day for the purpose aforesaid. When their view and hearing shall be concluded, they shall determine and appraise the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by such improvement.

(5) If there should be any building standing in whole or in part, upon the land to be taken, the said appraisers shall in each case determine the amount of damages which should be paid to the owner or owners thereof in case such building, or so much thereof 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 should elect to remove such building, and the damages in relation to building aforesaid shall be appraised separately from the damages in relation to the land upon which they are erected.

(6) If the lands and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate in it less than an estate in fee, the injury or damage done to such persons or interests respectively, may be awarded to them by the appraisers.

(7) The said appraisers having ascertained and appraised the damage aforesaid, shall make and file with the secretary of said board of park commissioners, a written report to said board of park commissioners, of their action in the premises, embracing a schedule or

appraisement of the damages in each case, with a description of the land and names of the owners, if known to them, and also a statement of the cost of the proceedings.

(8) Upon such report being filed, the secretary of the board of park commissioners shall give at least ten (10) days notice by publication in the official newspaper of said city, to the effect that said appraisal has been returned, and that the same will be confirmed by the board of park commissioners at a meeting thereof to be named in said notice, unless objections are made in writing by persons interested in any land required to be taken. Any persons interested in buildings standing in whole or in part upon any land required to be taken by such improvement, shall, on or before the time specified in such notice, notify the said board of park commissioners in writing of their election to remove such building. The board of park commissioners upon the day fixed for the consideration of such report, or at such subsequent meetings to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisal, giving due consideration to any objections interposed by parties interested.

(9) The damages appraised shall be paid out of the park fund, and shall be paid or tendered or deposited and set apart in the treasury of said city, to and for the use of the parties entitled thereto, within six (6) months from the confirmation of such appraisal and report; and the land and property required to be taken for the purposes aforesaid, shall not be appropriated until the damages awarded therefor to the owner thereof, shall be paid or tendered to the owner or his agent, or deposited and set apart for his use as aforesaid; and in case the said board of park commissioners shall be unable to determine to whom the damages in any particular case so awarded, shall be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited, by order of the board of park commissioners, in the district court of the county in the same manner as moneys are paid into court, until the parties entitled thereto shall substantiate their claim to the same.

(10) In case any owner or owners of buildings as aforesaid shall have elected in manner aforesaid to remove his or their buildings, he or they shall so remove them within thirty (30) days from the confirmation of said report, or within such further time as the board of park commissioners may allow for the purpose, and shall thenceforth be entitled to payment from said park fund 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) to remove the same within the time prescribed, such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking in manner aforesaid, may be taken and appropriated, sold or disposed of as the said board of park commissioners shall direct, and the same or the proceeds thereof shall belong to the said park fund.

(11) When any known owner of lands or tenements affected by any proceeding within this act. shall be an infant, or shall labor under any legal disability, a judge of the district court of Hennepin county may, upon application of said commissioners, or of said board of park commissioners, or such party or his next friend, appoint a suitable

guardian for such party, and all notices required by this act shall be served upon such guardian.

(12) Any person whose property is proposed to be taken or interfered with under any provisions of this act, and who deems that there is any irregularity in the proceedings of the said board of park commissioners 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, may at any time before such award shall be confirmed by the board of commissioners, file with the secretary of said board, in writing, his objection to such confirmation, setting forth therein specifically the particular irregularities complained of, and containing a description of the property affected by such proceedings, and if, notwithstanding such objections, the said board shall confirm the award, such person so objecting shall have the right to appeal from such order of confirmation of the board, to the district court of the county of Hennepin, at any term, within ten (10) days after such order. Such appeal shall be made by serving a written notice of such appeal upon the secretary of said board, which shall specify the property of the appellant affected by such award, and refer to the objection filed as aforesaid, and by also delivering to said secretary a bond to the city of Minneapolis, executed by the appellant, or by some one on his behalf, with two (2) sureties who shall justify in the penal sum of fifty dollars (\$50) conditioned to pay all costs that may be awarded against the appellant. Thereupon the said secretary shall make out and transmit to the clerk of the said district court a copy of the award of said commissioners, as confirmed by the board, and of the order of the board confirming the same, and of the objection filed by the appellant as aforesaid, all certified by said secretary to be true copies, within ten (10) days after the taking of such appeal. But if more than one (1) appeal be taken from any award, it shall not be necessary that the secretary in appeals subsequent to the first (1st), shall send up anything except a certified copy of the appellant's objection. There shall be no pleading on such 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 said written objections, that as to him the award or appraisal of the appraisers ought not to stand, and whether said appraisers had jurisdiction to take action in the premises.

The case may be brought on for hearing on eight (8) days notice, at any general or special term of the court, and shall have precedence of other civil cases, and the judgment of the court shall be either to confirm or annul the proceedings only as the same affects the property of the appellant proposed to be taken or damaged and described in said written objection.

From such determination no appeal nor writ of error shall lie. In case the amount of damages awarded is complained of by such appellant, the court shall, if the proceedings shall be confirmed in other respects, upon such confirmation, appoint three (3) disinterested freeholders, residents of said city, appraisers to re-appraise such damages. 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 faith-

ful 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 pertinent to the question of the amount of such damages. Such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages, and in all other material respects, as are in this act made for the government of appraisers appointed by said board. They shall, after such hearing and view of the premises, making report to said court of their appraisal of damages in respect to such appellant. The award of such appraisers shall be final, unless set aside by the court for good cause shown. In case such report is set aside, the court may, in its discretion re-commit the same to the same appraisers or appoint new appraisers, as it shall deem best, but no appeal or writ of error shall be allowed from any order of the court in the premises. Said court shall allow a reasonable compensation to such appraisers for their services, and make such award of costs on such appeal, including the compensations of such appraisers, as it shall deem just in the premises.

In case the court shall be of opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant.

The board of park commissioners shall have the right any time during the pendency of any proceedings for the improvements authorized in this act, or at any time within thirty (30) days after the final order of the court, or any appeal from such proceedings, to abandon all such proceedings whenever it shall deem it for the interest of the city to do so.

(13) As soon as said proceedings for acquiring the title to such lands shall have been completed, it shall be the duty of said commissioners to make or cause to be made an accurate description of all such lands as shall have been so acquired, with a statement of the amount of damages awarded and paid to each former owner for the land so acquired, which shall be certified by the president and secretary of said board under the official seal of the said board, and be filed for record in the office of the register of Deeds of said county of Hennepin; and it is hereby made the duty of said register of deeds to record the same among the records of transfers of real estate in said county, which records shall be prima facie evidence of title to such land, and of the transfer of all the interest of such former owner in the same to said city of Minneapolis. It shall also be the duty of said commissioners to file with said register of deeds correct plats of all such lands as they may acquire for the purposes of this act, which shall be kept on file and of record in the office of said register of deeds in like manner as plats of additions to the city of Minneapolis.

SEC. 5. As soon as the amount required for the purchase and condemnation of any lands selected for parks and park ways shall have been ascertained by said board of commissioners with reasonable certainty, it shall apply to a judge of the district court of Hennepin county for the appointment of three (3) freeholders of the city of Minneapolis as park assessors. Notice shall be given in the official newspaper published in the said city of the time when such application will be made, and all parties interested may appear and be heard by said judge touching said appointment.

The court after hearing such persons as shall desire to be heard

touching such appointment, shall nominate and appoint three (3) assessors who shall not be interested in any piece of land to be assessed by them for the purposes provided in this section. The board of park commissioners shall determine what, if any, percentage of the amount so ascertained shall be assessed upon the lands benefited by such parks and parkways for each of such parks and parkways. The said assessors shall proceed to assess upon such lots, blocks, tracts and parcels of land in the city of Minneapolis as they shall deem to be specially benefited by such parks, parkways and improvements, whether the said lands shall adjoin and abut upon such parks and parkways or any of them, or not, and assessing upon each such lot, block or tract such sum as they shall deem a just proportion of such percentage of the cost so to be assessed and charged for benefits, and the decision of said assessors as to what lots, blocks and parcels of land are specially benefited shall be deemed to include all the lands which are so specially benefited. In case of the purchase of lands for any such parks or parkways, or of any part thereof, it shall be competent for said board of park commissioners to agree with the vendor or vendors of the lands so purchased upon a price therefor which may in addition to the purchase price of such land include exemption from an assessment for benefits upon any remaining contiguous or adjacent lands owned by such vendor or vendors, and in that case such remaining lands shall be free from any liability to assessment and contribution for benefits to be assessed upon lands as in this act provided. In all such cases a record shall be made by said board specifying the lands so to be free, which shall be filed in the office of the secretary of said board, and may be recorded in the office of the register of deeds of Hennepin county. Upon entering on the duties of their office the said assessors shall make oath before the clerk of the said district court faithfully and impartially to discharge the duties of said office. They shall give at least ten (10) days notice in one (1) of the said daily newspapers of the time and place of their meeting for the purpose of making said assessment, and may adjourn such meeting from time to time until the same shall be completed. All parties interested may appear before said assessors and may be heard touching any matter connected with the assessment, and the assessors shall hear and consider any pertinent testimony offered, and may administer oaths to witnesses.

When the assessment shall be completed it shall be signed by the assessors or by a majority who shall concur therein, and shall be returned to and filed in the office of the clerk of the said district court.

The commissioners shall thereupon give at least ten (10) days notice in one (1) of the said daily papers of the filing of said assessment roll, and that they will, on a day therein named, apply to the said district court for confirmation of the same; a copy of said notice shall be served personally or by leaving at the place of abode of each person known to be the owner or interested in any lands so assessed at least five (5) days before the time for such application. Said district court shall have power to revise, correct, amend or confirm said assessment in whole or in part, and may make or order a new assessment in whole or in part, and the same revise and confirm upon like notice. All parties interested may appear before said district court, either in person or by attorney, when such application shall be made, and may object to said

assessment, either in whole or in part, provided all objections shall be in writing, and shall be filed at least three (3) days before the time fixed for the application, and shall specify the lot, block or parcels of land on behalf of which objection is made. After the confirmation of said assessment, the clerk of said district court shall file a copy thereof in his office, and such assessment shall be a lien upon the several lots, blocks or parcels of land assessed for the benefits as aforesaid. Ten (10) per cent. of the amount so ascertained shall be due and payable annually, and the auditor of said Hennepin county shall include in the general tax lists for each year, until the whole sum shall be paid, for the collection of state and county taxes in the said city of Minneapolis, ten (10) per cent. of the said assessments, in an appropriate column, to be termed "park assessment," with the amount to be collected opposite the several lots, blocks or parcels of land assessed as aforesaid; and like proceedings in all respects shall be had for enforcing the collection of the same as is now provided by law for the collection of city, state and county taxes. The money collected under the provisions of this section shall be paid to the treasurer of the city of Minneapolis, for which he and his sureties shall be responsible, as fully as for any other moneys by him received as treasurer. *Provided*, that if the owner of any lot, block or parcel of land so assessed for benefits, shall pay the entire amount of such assessment at any time, he shall be allowed a rebate by way of discount at the rate of 7 per cent. per annum, and upon making payment of such sum as if put at interest at 7 per cent, simple interest, would amount to the several sums at the time they would become due under the provisions of this section. The said land shall be free from any further assessment or contribution for benefits, but shall be subject to its proportion of taxation for the portion of said cost raised by general tax.

SEC. 6. For the cost of acquiring a title to lands for said parks and parkways, if it shall be authorized so to do by a majority of the legal voters of the city of Minneapolis, voting in the manner hereinafter provided, the said board of park commissioners shall have power to borrow from time to time, for such time as it shall think expedient, not exceeding fifty (50) years, a sum of money the annual interest upon which, for all the moneys so borrowed, shall not exceed twenty-five thousand dollars (\$25,000), and for that purpose shall have authority to issue bonds of the city of Minneapolis, to be denominated "park bonds," secured upon said parks and the improvements thereon, which bonds shall issue under the seal of said board of park commissioners, and shall be signed by the president and secretary of the said board, and countersigned by the comptroller of the city of Minneapolis, and shall bear interest not exceeding four and a half (4½) per cent. per annum. *Provided*, however, that no more than two hundred thousand dollars (\$200,000) of said bonds shall be issued during the year 1883, and in no case shall bonds be issued by said commissioners so that the bonded debt of the city shall exceed the limit fixed by law. It shall be the duty of said board of park commissioners and of the city comptroller to keep an accurate register of all bonds issued, showing the amount, number and date of each bond, and for the payment of the principal and interest of said bonds, the said parks and improvements thereon shall be irrevocably pledged with a first lien thereon, and the city of Minneapolis shall be irrevocably bound, and said bonds may be

sold by said board of park commissioners upon such terms and for such prices as in its judgment are the best which can be obtained for the same. *Provided*, that the sums realized by said park commissioners from the sale of such bonds shall be equal to or exceed a sum four and a half (4½) per cent. upon which shall equal or exceed the amount of annual interest payable on the bonds so sold.

SEC. 7. The said board of park commissioners shall annually, on or before the first (1st) day of October in each year, transmit to the auditor of Hennepin county an estimate, in writing, of the amount of money necessary for the payment of interest on bonds issued by said board and that will be required for the purchase, improvement, maintenance and government of said parks and parkways during the succeeding year, which amount shall not exceed what will be raised by a tax of one (1) mill upon each dollar of valuation of the taxable property in said city, and the said auditor shall proceed to determine what per cent. said sum is on the taxable property of said city, according to the assessor's returns, and shall in the next general tax list for the collection of city, state and county taxes in said city set down the amount chargeable to the several persons, corporations, lots or parcels of ground in a separate or appropriate column, and the proper officers shall proceed to collect the same in the manner now provided by law for the collection of city, state and county taxes, and all the provisions of law in respect to the collection of city, state and county taxes, and proceedings to enforce the same, so far as applicable, shall apply to said assessments and taxes. The said sum of money, together with all other moneys provided for the purpose of this act, shall be placed by the treasurer of the city of Minneapolis to the credit of said board of park commissioners, and shall be drawn by said board from the city treasurer by warrant, signed by the president and secretary of the board, and countersigned by the city comptroller, and in no other way, and shall constitute a special fund, to be known and denominated the "City Park fund."

SEC. 8. It shall be lawful for said board of commissioners to vacate and close up any and all public roads and highways, excepting railroads, which may pass through, divide or separate any lands selected or appropriated by it for the purpose of parks, and no such road, highway or railroad shall be laid out through said parks or any of them except as the said board of commissioners shall lay out and construct or shall consent thereto.

SEC. 9. The said board shall have power to construct all necessary bridges and viaducts over water courses and railroads within or on the line of said parks and parkways.

SEC. 10. The said commissioners, or either of them, may be removed from office by the district court of said county after trial and conviction, upon the petition, with sworn charges, presented by not less than ten (10) reputable freeholders of said city, if it shall appear at said trial, that the said commissioner or commissioners have been guilty of misdemeanor or malfeasance in office under this act.

SEC. 11. The office of any commissioner under this act who shall not attend meetings of the board for three (3) successive months, after having been duly notified of said meetings, without reasons satisfactory to the board, or without leave of absence from said board, may by said board be declared, and thereupon shall become vacant.

SEC. 12. The funds which may be received for and upon the special assessments of benefits herein provided for, shall be paid into the city treasury as a part of the park fund, one-half ($\frac{1}{2}$) of which benefit money shall be expended in the improvement of the park or parks on account of the benefits of which such money was assessed.

SEC. 13. The lands which may be designated and obtained under the provisions of this act shall remain forever for parks and parkways for the use of all the inhabitants of the said city, subject to such rules and regulations as the board of park commissioners shall prescribe, said parks being subject to the lien of the bonds which may be issued for their purchase, which lien in case of non-payment of said bonds at the maturity thereof, may be enforced by sales pursuant to any decree of a court of competent jurisdiction.

SEC. 14. The power and jurisdiction of the board of park commissioners shall not extend to the police control within the parks or parkways, except that the said board shall have authority to adopt any ordinance affecting the quiet, orderly and suitable use and enjoyment of said grounds by the people of the city of Minneapolis, and to fix and ordain penalties for the violation thereof, and the police control over said grounds shall be and remain where it is or may be vested by the charter of said city.

SEC. 15. The board of commissioners appointed by this act, or their successors, shall take no proceedings for the condemnation or purchase of lands, or the issue or sale of bonds, until the provisions of this act shall have been accepted by the legal voters of the city of Minneapolis at the annual city election in said city, to be held on the first (1st) Tuesday in April, one thousand eight hundred and eighty-three (1883), the legal voters of said city shall vote upon the acceptance of said provisions, "park system, yes" or "park system, no," which said votes shall be cast, canvassed and certified in the manner now provided by law or ordinance for casting, canvassing and certifying votes at a city election. If a majority of the legal voters voting thereon shall vote "park system, yes," then the said board of commissioners shall proceed to exercise all the powers granted in this act. If the majority of such voters voting thereon shall vote "park system, no," the said board of commissioners shall exercise none of the powers specified in this section.

SEC. 16. All acts and parts of acts whether in the charter of the city of Minneapolis or elsewhere, inconsistent with any of the provisions of this act are hereby repealed.

SEC. 17. This act shall take effect and be in force from and after its passage.

Approved February 27, 1883.