

CHAPTER LIII.

March 1, 1872.*An Act to amend Title One of Chapter Thirty-Four of the General Statutes relating to Corporations.*

- SECTION 1. Amendment to section 14 of chapter 34 of general statutes, relating to the overflow of land for water power.
2. Amendment to section 15 of said chapter, relating to proceedings to be taken for condemning land therefor.
 3. Amendment to section 16 of said chapter relating to adjournment of proceedings.
 4. Amendment to section 17 of said chapter, relating to the action of the court.
 5. Section 18 of said chapter repealed.
 6. Amendment to section 19 of said chapter, relating to the duties of commissioners.
 7. Amendment to section 20, relating to the filing of report of commissioners.
 8. Repeal of section 21 of said chapter.
 9. When act to take effect.

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

SECTION 1. That section fourteen (14) of, said chapter thirty-four (34) of the general statutes, be and the same is hereby amended so as to read as follows:

Application to
district court
for commis-
sioners to be
appointed.

Sec. 14. Such corporation may present to the district court in and for the county in which any lands or real estate proposed to be taken shall be situate, a petition signed by the president and secretary of such corporation, setting forth a description of the enterprise to be prosecuted by them, and describing with reasonable certainty and accuracy by map, plat or otherwise, the lands, property and estate which it will be necessary to appropriate, take, use or overflow for the purposes of such enterprise in said county, setting forth the name of each and every owner, incumbrancer or other person interested in the same or any part thereof, so far as the same can be ascertained by the public records, and by view of the premises or other inquiry touching the occupation thereof, and praying the appointment of three (3) competent disinterested persons as commissioners to ascertain and determine the compensation to be made to such owner or owners respectively, and to all tenants, incumbrancers and others interested, for the taking or injuriously affecting such land or real estate.

SEC. 2. Section 15 of said chapter is hereby amended so as to read as follows :

Sec. 15. A notice stating briefly the objects of the petition, and containing a description of the lands proposed to be taken, and stating the time and place, when and where the same will be presented to the court shall be served on each and every person named therein as owner, incumbrancer, tenant or otherwise interested therein, at least ten (10) days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons so named therein, if a resident of this state, or in case of the absence of such person, by leaving a copy of such notice at his or her usual place of abode, with some person of suitable age and discretion then resident therein. In case of domestic corporations such service may be made upon the president, secretary, or any director or trustee of such corporation; in case of minors, on their guardian, or in case no guardian shall have been appointed, then on the person who has the care and custody of such minor; in case of idiots, lunatics or distracted persons, on their guardian or committee; or in case no guardian or committee shall have been appointed, then on the person in whose care or charge they are found; in case of feme covert, on the husband as well as the feme covert. In all cases where the owner or person claiming an interest in such real property is a non-resident of this state, or where the residence of such owner or person is unknown, and an affidavit by the agent or attorney of the corporation shall be filed, showing that such owner or person is a non-resident of this state, or that after diligent inquiry his residence is unknown or cannot be ascertained by such deponent, service of such notice may be made by the publication thereof in any newspaper published in the county where such lands are situate, once a week for three (3) successive weeks; and in case no newspaper shall be published in said county; then such publication may be had in a newspaper published at the seat of government of this state; and such publication shall be deemed service upon each of such non resident person or persons whose residence is unknown. Due proof of the service of such notice, by the affidavit of the person serving the same, or by the printer's affidavit of publication shall be filed with the clerk of such district court before the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to the person not served; but all persons having been served with notice as herein provided, either by publication or otherwise; shall be bound by the subsequent proceedings.

Service of notice upon parties interested.

In cases where the enterprise shall be located through or upon school or university lands, or any other lands belonging to this state, such notice shall be served upon the secretary of state or his assistant, and the commissioners shall award damages to the state, in like manner as to private persons or corporations.

Adjournment
of proceedings.

SEC. 3. Section sixteen (16) of said chapter is hereby amended so as to read as follows :

SEC. 16. The court may, upon the application of the petitioner, or of any owner or party interested, for reasonable cause adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected.

Action of court

SEC. 4. Section seventeen (17) of said chapter is hereby amended so as to read as follows :

SEC. 17. At the time and place appointed for hearing said petition if the court shall have satisfactory proof that all parties interested in the lands described in said petition have been duly served with the said notice as above prescribed, and shall be further satisfied by competent proof, that the public interests require the prosecution of such enterprise, and that the lands or real estate proposed to be taken are required and necessary for the purposes of such enterprise, the court may make an order to be recorded in the minutes thereof, appointing three (3) competent disinterested persons, resident in said county, commissioners to ascertain and determine the amount to be paid by such corporation to each of such owners or persons interested as compensation for his or her damages by reason of taking or injuriously affecting any such land or real estate; and specifying the time and place of the first meeting of said commissioners, and fixing their compensation. Before entering upon their duties such commissioners shall severally take and subscribe an oath, before some person qualified to administer oaths, faithfully and impartially to discharge the duties of their appointment.

Section 18 re-
pealed.

SEC. 5. Section eighteen (18) of said chapter is hereby repealed.

SEC. 6. Section nineteen (19) of said chapter is hereby amended so as to read as follows :

Duties of com-
missioners.

SEC. 19. The commissioners shall meet at the time and place mentioned in the order appointing them and proceed to examine the entire line of said canal, telegraph line, railroad or other improvement, or so much thereof as is situate in said county and described in said petition, and all the lands, property and real estate, which will be taken damaged, overflowed, appropriated or used, by or for the pur-

poses of said enterprise and which are described in said petition, and shall hear the allegations and testimony of all persons interested, and proceed to make in each case a separate assessment of damages which will result to any parties, corporation or company, by reason of the construction of said canal, telegraph line, railroad or improvement, and shall determine, appraise and award to the owners of such land, property, easement or any other right proposed to be taken or injuriously affected, the amount of damages arising to them respectively from the taking or injuriously affecting their said land, property or estate for the purposes of such enterprise.

SEC. 7. Section twenty (20) of said chapter is hereby amended by striking out the words "and shall give the same notice of the filing of their report as of their meeting" at the end of said section, and insert in lieu thereof the following words, viz: "and shall notify the parties interested in such report that the same is made and filed," such notice shall be served upon the respective parties in the same manner as the notice provided for by section fifteen (15) of said chapter as amended by this act. Provided that if any such party shall have appeared by attorney, service may be made upon such attorney.

Notice of meetings.

SEC. 8. Section twenty-four (24) of said chapter is hereby repealed.

Repeal of section 24.

SEC. 9. This act shall take effect and be in force from and after its passage.

Approved March 1, 1872.