

(1) If the party be an infant of the age of 14 years, and under no legal disability except his minority, upon the application of such infant;

(2) In all other cases, upon the application of the general guardian, or of a relative or friend of such party.

(3) When no such application has been made by or in behalf of a party defendant before answer or default, then upon the application of the plaintiff or his attorney. In such cases, if the defendant is in default, the court shall allow his guardian ad litem a reasonable time to answer.

(4) In proceedings commenced otherwise than by the service of summons, application may be made forthwith by the petitioner or moving party with regard to any infant or incompetent person affected by the proceeding.

(5) When application is properly made by an infant in his own behalf, or by the general guardian of an infant or incompetent person, no notice shall be required. In other cases, notice of such application, designating the time and place of hearing, shall be given to the general guardian of such party or person or to such relative, adviser or friend as the court shall designate. The court may also require that like notice be given to such party or person himself. The court shall specify the time and manner of giving such notices."

Approved February 21, 1945.

CHAPTER 21—S. F. No. 57

An act relating to the abandonment, closing for traffic or removal of certain railway tracks, providing procedure therefor, prohibiting the abandonment, closing for traffic, or removal thereof under certain conditions, and prescribing penalties for violations thereof, repealing and superseding Minnesota Statutes 1941, sections 219.68, 219.72, 219.73, 219.74 and 219.75 subject to certain conditions, and limiting the application of Minnesota statutes 1941, section 645.35.

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

Section 1. **Removal of railroad tracks must be approved by Railroad and Warehouse Commission.** No company operating a line of railroad in this state shall abandon, close for

traffic, or remove any spur, industrial, team, switching or side track which has been used directly by the shipping public or any member thereof for the loading or unloading of freight without first having obtained the approval of the Railroad and Warehouse Commission.

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Sec. 2. **Application for removal.** Any railroad company desiring to abandon, close for traffic, or remove any tracks described in Section 1 hereof shall first make application to the commission in writing. Before passing upon such application the commission shall fix a time and place for hearing and a notice of such hearing shall be served upon all interested persons so far as known to the commission.

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Sec. 3. **Procedure; appeal.** The procedure before the commission and the right of appeal shall be pursuant to acts amendatory thereof.

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Sec. 4. **Exceptions.** The foregoing provisions shall not apply to logging or ore roads constructed and used exclusively for logging or mining purposes, nor to tracks described herein which are used exclusively for logging or mining purposes, nor shall it apply to any railroad which is not a common carrier.

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Sec. 5. **Violation; forfeiture.** Any company violating any of the provisions of this act shall forfeit as a penalty to the state the sum of \$1,000 which may be recovered in a civil action.

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Sec. 6. **Treble damages.** Any person who has been injured in any manner by a violation of this act by any company shall have a cause of action against such company for treble the amount of all damages to him or his property resulting from such violation.

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Sec. 7. **Restoration of tracks for service.** Subdivision 1. When the Railroad and Warehouse Commissioner is informed of the abandonment, closing for traffic, or removal of any track in violation of Section 1 hereof, it shall forthwith order the company which has committed such violation to restore such track for service and to resume service thereon, and if such track has been removed, to relay such track.

Subd. 2. When any such company shall fail to obey an order of the commission made pursuant to Subdivision 1 of this section, the commission, upon verified petition alleging such failure, may apply to the district court of the county in which such company has a principal office, or into which a

line of railroad of such company extends, for the enforcement of such order or other appropriate relief. The court, upon such notice as it may direct, shall hear such matter as in case of an appeal from an order. On such hearing the findings of fact upon which such order is based shall be prima facie evidence of the matters therein stated, and the court may grant any provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, and may impose a fine of not more than \$500 for each day's failure to obey any writ, process, or order of the court, in addition to all other penalties herein provided. A temporary mandatory or restraining order may be made in such proceeding, notwithstanding any undetermined issue of fact, upon such terms as the court may direct.

Sec. 8. Repeal. Minnesota Statutes 1941, Sections 219.68, 219.72, 219.73, 219.74 and 219.75 are hereby repealed and such sections so repealed are superseded by this act. Minnesota Statutes 1941, Section 645.35, shall not be construed to apply to this act.

Approved February 23, 1945.

CHAPTER 22—S. F. No. 90

An act relating to the incorporation, organization and government of cities, and amending General Laws 1895, Chapter 8, Section 133.

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

Section 1. General Laws 1895, Chapter 8, Section 133, is hereby amended to read as follows:

Power to maintain buildings. "It shall have power by a three-fourth vote of all the members thereof to erect, provide for, improve and repair a city hall, police stations, fire stations, armories, jail, auditorium, workhouse, houses of corrections for females and children, and parental schools, hospitals, medical dispensaries, sanitariums, public baths and public lodging houses, infirmaries, -public cemeteries, foundling homes, school houses, libraries, markets, and market houses, public wharves, pounds, pest houses, quarantine hospitals, dumping places, dumping stations, sewer stations, and such appurtenances, accessories, apparatus, and equipments in con-