

CHAPTER 336.

[H. F. No. 1092.]

AN ACT TO AUTHORIZE THE TRANSCRIBING OF CERTAIN RECORDS IN THE OFFICE OF THE REGISTER OF DEEDS OF RAMSEY COUNTY.

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

SECTION 1. The register of deeds of Ramsey county is hereby authorized and directed to transcribe in appropriate records to be provided for such purpose all certificates now on file in his office made by sheriffs upon sales of real estate on mortgage foreclosures, judgments and executions prior to May ten (10), one thousand eight hundred and sixty-two (1862). *Provided, however,* that the expense thereof shall not exceed the sum of five hundred (500) dollars.

SEC. 2. The recording of such certificates shall have the effect of a record of the same from the time when they were filed in said office and shall be prima facie evidence of the facts therein set forth.

SEC. 3. The expense of such transcript shall be paid by the said county of Ramsey and shall be allowed by the board of commissioners of said county on completion of said work.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved April 24, 1889.

CHAPTER 337.

[S. F. No. 838.]

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF THE COUNTY OF HENNEPIN, MINNESOTA, TO ESTABLISH AND MAINTAIN A UNIFORM HEIGHT OF WATER IN LAKE MINNETONKA, IN SAID COUNTY.

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

SECTION 1. The county commissioners of the county of Hennepin, Minnesota, are hereby authorized and empowered to establish a uniform height at which the waters of lake Minnetonka, in said county, shall be maintained, and to do such work as shall be necessary to maintain said waters perpetually at the height so established; *provided,* that said height shall not be less than two (2) feet above the low water mark of the waters in said lake in said county.

SEC. 2. For the purpose of carrying out the provisions of this act, said commissioners are authorized to acquire by condemnation, at a cost not to exceed ten thousand dollars (\$10,000), such land as shall

by them be deemed needful on the shores and outlet of said lake in said county, and such rights as they shall require for said purpose to flow the lands bordering on said lake and said outlet in said county, by building or maintaining any dams or dykes, or by other means.

SEC. 3. In case it shall be necessary to acquire said land and rights by condemnation said commissioners may proceed in manner following: They shall cause to be made a survey and a map of the land which they shall determine to take or to flow, which shall be certified by the majority of the said commissioners, and filed in the office of the register of deeds of Hennepin county; and the said map shall contain the names of the owners, mortgagees and judgment creditors interested in each specified tract of land to be taken, or over which the rights of flowage are to be acquired, so far as known to the commissioners, or to be ascertained from the records in the office of the said register of deeds.

SEC. 4. Upon the filing of said map as above required the commissioners shall give written or printed notice to each owner, mortgagee and judgment creditor interested in the several tracts proposed to be taken as far as they can be ascertained, as hereinbefore provided, declaring that the county commissioners of Hennepin county, Minnesota, intend to take or acquire the right to flow the lands described by said survey as shown by said map, and that the said commissioners intend to apply to the district court of the fourth judicial district, which is hereby vested with jurisdiction to hear and determine any matter arising under this act, at a general or special term thereof and on a day in said notice named for the appointment of three (3) free-holders, residents of said county, to act as appraisers to ascertain and report the just compensation to be paid to the person or persons or corporation owning or having any interest in said lands, which notice shall be served on the owners and parties in interest in a like manner as a summons in a civil action is now provided to be served by the laws of the state of Minnesota, at least ten (10) days previous to the time designated by the said notice for the presentation of such application. In case of non-resident owners the notice may be served by publication thereof in any newspaper published in said county once in each week for three (3) successive weeks.

SEC. 5. Upon the day designated in said notice or on some other day to be named by said court, the court shall hear the application of said commissioners and shall appoint three (3) disinterested appraisers for the purpose aforesaid, and in case any appraisers shall decline to serve the said court may upon application of the said board of commissioners, upon notice of said vacancy and application to be published in a newspaper to be named in the court and published in said county once in each week for three (3) successive weeks, appoint another appraiser in his place.

SEC. 6. The appraisers shall before they enter upon their duties take an oath to be administered by some person authorized to administer oaths, faithfully to perform their duties according to the best of their ability. They shall give notice of the time and place of their meeting to view the said lands by publishing the same in a

newspaper designated by said court, published in said county, once in each week for three (3) successive weeks, which meeting shall not be less than five (5) days after the last publication of said notice.

SEC. 7. The appraisers shall together view said lands and shall receive any pertinent evidence as to the compensation that should be made. They shall ascertain and award to the respective owners of said lands and to all persons or corporations interested therein, such compensation therefor as in their judgment shall be just and proper, and in fixing the amount of such compensation, said appraisers shall not make any allowance or reduction on account of any supposed or real benefits which the parties interested may derive from the improvement caused by the establishment and maintenance of said water at the uniform height determined by said commissioners and for the purpose of which said lands are to be taken and said rights acquired.

The report of said appraisers signed by them or a majority of them shall be filed in the office of the clerk of said district court as soon as completed, and said report shall be made and filed within three (3) months from the time of their appointment.

SEC. 8. After the report of said appraisers shall be so filed the board of commissioners shall give notice by publication once in each week for three (3) successive weeks in some newspaper designated by the court and published in said county, that they will on a day specified in said notice apply to the said court for an order confirming said report and on the day so appointed the said court, upon being furnished with proof of the due publication of said notice as above provided, shall hear the matter and shall make such order in the premises as may be just and in case of the confirmation of said report it shall make an order containing the recital of the substance of the proceedings in the matter of the appraisement of the real estate for which compensation shall be paid and shall also direct to whom the compensation shall be paid.

A certified copy of the order to be made as aforesaid shall be recorded in the office of the register of deeds of said county.

SEC. 9. Said court shall have power at any time to amend any defect or informality in any of the proceedings to acquire said land and rights and also to appoint other appraisers in place of any one who for any reason may not serve.

SEC. 10. Within twenty (20) days after the conformation of the report of the appraisers as provided for in this act any person interested in said lands may appeal by notice in writing to the supreme court from the report of said appraisers. Such appeal shall be heard by the supreme court on ten (10) days notice thereof being given to either party by the other according to the rules and practice of the court. On the hearing of such appeal the court may direct a new appraisement by the same or of new appraisers. The second (2nd) report shall be final and conclusive upon all parties interested. *Provided, however,* that said commissioners shall not take possession of said appraised premises or exercise any rights in respect thereto until the amount awarded for the same shall have been tendered or paid to the owners thereof or paid into court as provided herein.

SEC. 11. If there should be any adverse or conflicting claims to the money or any part of it to be paid as compensation for the lands taken or affected as aforesaid, the said district court may direct the moneys paid into court and may determine who is entitled to the same and direct to whom the same shall be paid, and may in its direction order a reference to ascertain the facts upon which said determination and order may be made.

SEC. 12. The said commissioners shall have the right at any time during the pendency of any proceedings for the acquisition of any lands or any rights for the improvement authorized by this act, or at any time within thirty (30) days after the final disposition by the court of all appeals taken in such proceedings to abandon all such proceedings in respect to the said improvement or any part thereof, or to any of said lands or any part thereof, whenever they shall deem it for the best interest of said county so to do.

SEC. 13. As soon as the amount required for the condemnation of said lands and rights shall have been ascertained by said board of commissioners with reasonable certainty, said commissioners shall apply to the said district court for the appointment of three (3) free holders of said county as assessors of benefits. Notice shall be given of the time when such application shall be made by publication once in each week for three (3) consecutive weeks in a newspaper published in said county, and all parties interested may appear and be heard by said court touching said appointment.

After said hearing the court shall appoint three (3) disinterested free-holders as assessors, who shall proceed to assess upon such tracts and parcels of land in said county as they shall deem to be sufficiently benefited by said improvement, whether such lands shall adjoin and abut upon said lake and outlet or not, such sum as they shall deem a just proportion respectively of the total cost of said improvement, and the determination of said assessors as to what tracts of land are specially benefited shall be deemed to include all the lands so specially benefited. Before proceeding to act under said appointment the said assessors shall make oath before any person authorized to administer an oath, faithfully and impartially to discharge the duties of their said office, and shall then give notice by publication once in each week for three (3) consecutive weeks in a newspaper printed and published in said county, the last of which publications shall be at least three (3) days before the time of meeting for the purpose of making said assessment of benefits.

All parties interested may appear before said assessors and be heard touching any matter connected with the assessment. Said appraisers shall hear and consider any pertinent testimony offered and they may adjourn their meetings from time to time until their assessment is completed. When completed the assessment 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 said district court. Said commissioners shall cause to be published once in each week for three (3) consecutive weeks in a newspaper printed and published in said county a notice of the filing of said assessment roll and that they will upon a day named therein apply to said court

for a confirmation of said assessment, the last of which said publications shall be at least five (5) days prior to the said application. Said notice shall set forth the boundaries of the district in which said assessments have been levied, and a copy thereof shall be served personally upon the occupant, if any, of said several tracts or parcels of land described therein, by leaving the same with such occupant or some member of his family upon said premises, at least five (5) days prior to the date of such application. Proof that any of such tracts or parcels of land were vacant or unoccupied at the time when such service would have otherwise been made, may be made by affidavit, and the confirmation of such report by the court, upon service by publication and copy as aforesaid, shall bind the owners and all parties interested in said lands in all respects as though personal service had been made upon each.

Said district court shall have the 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, correct, amend or confirm on like notice. All persons interested may appear before said court at the time of said application and object to said assessment in whole or in part, but all objections shall be in writing, specifying the tracts or parcels of land in respect to which objection is made, and shall be filed at least two (2) days before the time fixed for the application.

Objections which relate simply to the amount assessed upon the premises specified shall not be available unless the court shall be satisfied that the assessors in fixing such amount were governed by improper motives or proceeded on erroneous principles or under an obvious mistake of facts.

SEC. 14. After the confirmation of said report the board of county commissioners shall cause a copy thereof as amended and confirmed to be filed in the office of the auditor of Hennepin county. The assessment therein made shall be a lien upon the several tracts or parcels of land so assessed for benefits as aforesaid. The auditor of said Hennepin county shall include the said assessments in the next general tax list for the collection of state, county and city taxes made after said copy shall be filed in his office, setting opposite the several tracts or parcels of land assessed, the amount of such assessments, in a proper column to be headed "Minnetonka improvement assessments" 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 state, county and city taxes, of said county.

SEC. 15. This act shall take effect and be in force from and after its passage.

Approved April 22nd, 1889.