

newspaper printed and published in the county where such sale is to take place, if there be such a newspaper, and also by mailing a copy thereof to the owner if his address be known, and by posting a copy of the same in three (3) public places in the town, city or village where the property is to be sold.

Provided, however, that whenever such warehouseman or storage company shall personally serve upon such owner or consignee a written notice requesting the removal of such freight or merchandise and notifying such owner or consignee that unless said freight or merchandise is removed within ninety (90) days from the day of the service of such notice, the same will be sold at the expiration of said ninety (90) days at a time and place specifically named in said notice, and such property may be sold by such warehouseman or storage company at the time and place specified in such notice."

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 21st 1895.

CHAPTER 81.

An act to amend sections three (3), six (6), nine (9), fifteen (15) and twenty-two (22) of chapter ninety-seven (97), general laws of Minnesota for one thousand eight hundred and eighty-seven (1887), relating to drainage of wet lands.

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

SECTION 1. That section three (3) of chapter ninety-seven (97), general laws of one thousand eight hundred and eighty-seven (1887) be and the same is hereby amended so as to read as follows:

Sec. 3. And it shall be the duty of the auditor thereupon to issue to said viewers a certified copy of the petition and order of the board, who shall proceed at the time set in said order, with a surveyor, who shall be a civil engineer, and shall make an accurate survey of the line of said ditch, drain or water course, from its source to its outlet; and they shall cause stakes or monuments to be set along said line, numbered progressively down stream, at each one hundred feet (100); and they shall make a computation of the number of cubic yards of earth to be excavated and removed from said ditch, drain or water course between each of the one hundred (100) foot stakes, and the estimated cost

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per cubic yard for the removal thereof, and shall sum up the total number of cubic yards of earth to be excavated and removed for the entire length of said ditch, drain or water course, and an estimate of the total cost of laying out, establishing and construction of the whole work.

Cross-section-
ing.

And they shall, in tabular form, give the depth of cut, width at the bottom and width at the top, at the source, outlet, and at each one hundred (100) foot stake or monument of said ditch, drain or water course; and they shall specify the time and manner in which the work shall be done, and may for that purpose set a different time for completing the several contracts and also for completing any station or stations included in each contract, and they shall have power when they find it necessary, to provide for running said ditch under ground, through drain tiles or other materials, as they deem best, by specifying the size and kind of tile or other material to be used in such underground work, and shall estimate the cost of the same as a part of the total cost of the work. And they shall file with their report an account of the names of the laborers and the time each was employed by them, and every other item of expense by them incurred in and about said work, and shall file their reports with the auditor, after having subscribed and sworn to the same."

SEC. 2. That section six (6) of said chapter be, and the same is hereby amended so as to read as follows:

Sec. 6. In locating a public ditch, drain or water course viewers may vary from the line described in the petition as they deem best, provided they commence the ditch at or near the point described in the petition and follow down the line therein described as near as practicable.

Branch drains.

And *provided further*, that they shall have authority to establish such branch ditch or ditches as may be necessary to give owners of lands assessed for the construction of the main ditch the full benefit thereof.

Provided, that such branch ditch or branch ditches may either be opened at the same time and in the same manner as the main ditch or the viewers may only locate said branch ditch or ditches and assess the benefits and damages to the land through which said branch ditch or ditches may be laid out, and also land over which the water, draining through such branch ditch or ditches may flow.

In all cases in which the route proposed is along highways already established, the viewers shall locate

the ditch at a sufficient distance from the center of such highway as to admit of a good road along the central line thereof; the earth taken from the ditch shall be so placed upon the roadway as to form a turnpike, and no nearer to the margin thereof than two (2) feet; but in locating a drain as above, the viewers shall not materially depart from the terminal points described in said petition.

Provided, that when there is not sufficient fall in length in the route described in the petition to drain the lands adjacent thereto, they may extend the ditch below the outlet named in the petition far enough not exceeding one-half ($\frac{1}{2}$) mile to obtain a sufficient fall and outlet.

And when it will not be detrimental to the usefulness of the whole work they shall, as far as practicable, locate the ditch on division lines between lands owned by different persons; and they shall as far as practicable, avoid laying the same diagonally across the lands, but they must not sacrifice the general utility of the ditch to avoid diagonal lines. And all persons whose lands may be affected by said ditch, may appear before said viewers (and before the board of county commissioners, at which a hearing may be had upon such matters and fully express their opinion upon all matters pertaining thereto.)

Variation from line in petition.

Owners may "express their opinion."

SEC. 3. That section nine (9) of said chapter be, and the same is hereby amended, so as to read as follows:

Sec. 9. Said board of commissioners, at the time set for the hearing of said petition (which said hearing may be adjourned from time to time) shall proceed to hear the same, and if they find the viewers' report is made in accordance with the provisions of this act, and they find the proposed ditch to be of public utility, or conducive to public health, or of public benefit or convenience, and if they find from the face of the report, and the evidence before them, that the estimated benefits to be derived from the construction of said work is greater than its total cost, including damages awarded, and that such benefits exceed such damages in a sufficient amount to warrant the construction thereof, they may, in their discretion, establish the same as specified in said viewers' report.

Hearing on petition.

Provided, that in case the viewers' report is found to be defective in any particular, the county commissioners shall have authority to remedy such defect and cause the expenses thereof to be assessed against the lands benefited.

SEC. 4. That section fifteen (15) of said chapter be

and the same is hereby amended so as to read as follows;

When bondsmen shall complete contract.

Sec. 15. If a job is not completed within the time fixed in the contract, it shall be the duty of the bondsmen to notify the county auditor of that fact within five days after the expiration of the time fixed in the contract.

Fees of surveyor.

Whereupon the auditor shall order said bondsmen to complete said job, and they shall receive from the county the amount due on such job or part thereof that they have so completed. The amount due said bondsmen for such ditching shall be determined by the county surveyor. The fees of the county surveyor for such services shall be paid out of the money due the original contractor, if any, otherwise by the bondsmen.

Time extended.

But the auditor may for good cause shown give further time to any contractor, not exceeding one year *provided* that a job not completed as hereinbefore specified shall be resold by the county auditor after ten days' notice by publication, to the lowest responsible bidder, but shall not be sold for a sum exceeding fifty (50%) per cent in excess of the estimated cost of such work, nor a second time to the same party.

A contract and bond shall be entered into as hereinbefore provided.

SEC. 5. That section twenty-two (22) of said chapter be and the same is hereby amended so as to read as follows:

Lands owned by state, &c.

Sec. 22. All lands owned by this state, and all lands owned by any land company or railroad company benefited by any such ditch, drain or water course, shall be liable to pay and shall pay for such benefits, the same as owners of taxable lands.

And the sum of five hundred (500) dollars is hereby appropriated out of the general revenue fund for that purpose, and also five thousand (5,000) dollars annually hereafter, or so much thereof as may be necessary to meet all assessments against state lands under this act.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved April 9th, 1895.