

hundred and eighty-four dollars and eighty-five cents (\$784.85) less than the price agreed to be paid for said land with the crop thereon, *therefore*;

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

SECTION 1. That the auditor of state is hereby authorized and directed to cancel the contracts of sale issued to said P. O. Dosseth on the sale of the se¼ of section five (5), township one hundred and thirty-six (136) of range forty-eight (48), upon demand of said Dosseth, and return to said Dosseth all sums paid by him on said purchase and resell said tract at the next sale of public lands for said Wilkin county. The state treasurer is hereby authorized and directed to honor and pay any warrant drawn by said state auditor for the consummation of said cancellation of sale as herein provided.

Cancellation
of sale.

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

Approved April 2, 1897.

CHAPTER 88.

S. F. No. 373

An act entitled "An act to provide for the establishment and maintenance of uniform heights of water in the navigable lakes of this state, in order to improve navigation therein, or to promote the public health or welfare, and to that end to provide for acquiring and condemning property and doing all such other acts as may be necessary."

To establish
uniform
heights of
water in nav-
igable lakes.

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

SECTION 1. The board of county commissioners of any county in this state in which all, or the major part, of any navigable lake is situated, is hereby authorized and empowered, in order to improve the navigation in such lake, or to promote the public health or welfare, to establish, as herein provided, a uniform height at which the water in such lake shall be maintained, and to raise said water to and to maintain it at said height, as nearly as practicable.

County com-
missioners to
establish.

SEC. 2. To carry out the purposes of this act, such board is hereby authorized to acquire by gift, purchase or condemnation any dam or dams on any stream af-

Authorized
to acquire
dams and
lands.

To construct
dams.

fecting the level of the water in such lake, and also any land that such board shall deem necessary along, on or near the shores of any such lake on any such stream, and to construct and maintain on such land or across any such stream such dam or dams as may be necessary for the purpose of maintaining such water at such height, and also to acquire any necessary land for approaches from any highway to any such dam or dams that such board may acquire or construct, and to acquire all such flowage and other rights and all such property as such board shall deem necessary, and to do any and all things necessary to maintain the water in such lake as nearly as practicable at the height established, as herein provided, and to carry into full effect the purposes of this act.

Upon petition
or independ-
ently.

SEC. 3. Such board, upon the petition of one or more owners of land abutting on such lake, or independently thereof, when in the judgment of the board there shall be occasion so to do, shall consider the question of establishing a uniform height of water in such lake, and if, upon such consideration, such board shall deem it necessary for the improvement of navigation in such lake, or the promotion of public health or welfare, to establish and maintain a uniform height of water in such lake, such board shall adopt a resolution to that effect, and may proceed as often as may be necessary in manner following:

To designate
lands to be
taken.

SEC. 4. Such board shall then determine upon and establish a uniform height at which said board shall deem it necessary that the water in such lake shall be maintained, as nearly as practicable, and shall designate such lands as such board shall deem necessary to take for the purpose of acquiring any dam or dams, or for constructing and maintaining thereon any dam or dams across any such stream, or on or near the shores of any such lake, for the purpose of maintaining the water in such lake at such height, or for the purpose of providing approaches to such dam or dams, and any property which such board shall deem necessary to carry out any of the purposes of this act; and shall cause a map thereof to be made, which map shall be certified by such board and shall be filed in the office of the clerk of the district court of such county, which court is hereby vested with jurisdiction to hear and determine any matter arising under this act; and with such map shall be filed a petition by such board to said court, setting forth the height at which such board proposes to maintain the water in such lake, the lands and property designated to be taken by such board, pursuant to this act, the names of the owners, mortgagees, judgment

Certified map
to be filed
with petition
to the court.

creditors or other persons interested in or having any lien upon the specified land and property, so far as said names can be ascertained from the public records of the county or counties in which such lands are situated; and praying for the appointment of three competent, *disinterested freeholders, residents of this state, as appraisers*, to determine and award the compensation to be made to the owners and others interested in such lands and property.

SEC. 5. Upon the filing of such map and petition, such board shall give notice to all persons interested in the different tracts of lands and in the property so designated to be taken, that such board intends to take, pursuant to this act, the lands and property described in said petition, or shown by said map, as the case may be, and that such board will apply to said district court, at a general or special term thereof and on the day in said notice named, for the appointment of three competent, *disinterested freeholders, residents of this state*, to act as appraisers to determine and award the compensation to be made to the owners or other persons interested in said lands or property; and said notice shall be served by publishing the same for two successive weeks in some newspaper to be designated by said court and printed and published in the county in which such lake, or the major part thereof, is situated, and if there be none, then in a newspaper printed and published in an adjoining county or in the capital of this state, as the court may deem best calculated to give notice to the persons interested, and by posting a printed copy of said notice at the front door of the court house in said county and in some public place in each township in which any part of such lake is situated. The last publication in such newspaper and such posting shall be at least ten days prior to the date fixed in said notice for presenting said petition in said court. Said copies shall be posted by the sheriff of said county, who shall make return thereof, and such return shall be evidence that the requirements thereof as to posting have been complied with.

Notice to parties interested.

Appraisers.

To publish notice.

SEC. 6. At the time and place designated in said notice or at the time and place to which any adjournment may be directed by said court, said court, upon the presentation of such petition and map, with satisfactory proof that said notice has been served, as hereinbefore provided, shall proceed to hear and determine such petition. Any or all of the persons owning or having any interest in the lands and property which have been designated as aforesaid to be taken in the proceedings, may appear and be heard. Upon said hearing, if

Hearing on petition.

said court shall be satisfied that the public interests will be advanced by the establishment and maintenance of the water in such lake at said height, or at such other height as said court may determine, and that the lands and property designated to be taken or purchased, as herein provided, or both, or such portion thereof as said court may determine, are necessary therefor, said court shall make an order to that effect, to be recorded in the minutes thereof, and shall appoint three competent, disinterested freeholders, residents of this state, to determine and award the compensation to be made by such county for taking said lands and property; *provided, however,* that in cases where such board shall be able to agree with the owners and other persons interested in such lands and property, or any part thereof, for a purchase thereof at a price which such board shall deem reasonable, said petition to said court shall also contain a statement of the price so agreed upon for the same, and if said court upon said hearing shall approve of such price, as to the whole or any part of such lands or property, no appraisement shall be made as to such lands and property, the price of which shall be approved by said court, and such board, on such approval, shall be authorized and empowered to purchase such lands and property at such approval prices, and as to the remainder thereof not approved, said appraisers shall proceed to determine the compensation to be made, as herein otherwise provided. Said court shall specify in said order appointing such appraisers the time and place of the first meeting of such appraisers. Such appraisers shall meet at the time and place specified in the order appointing them, and shall severally take and subscribe to an oath, to be administered by some person authorized to administer oaths, faithfully and impartially to discharge the duties of their appointment, according to the best of their ability. The majority of them may adjourn the proceedings before them from time to time in their discretion. They shall together view the lands and property for which they are to award compensation, as herein provided, and hear the proofs and allegations of all persons interested, and they, or the majority of them, all being present, shall, without any unnecessary delay, proceed to award to the respective owners or the persons interested in said lands and property such compensation therefor in each case separately as in their judgment shall be just for the damages that will result by reason of the taking of said lands and property, pursuant to this act; and in fixing the amount of such compensation, such appraisers shall not make any allowance or reduction on account of any

Award of
compensa-
tion.

Meeting of
appraisers.

real or supposed benefits which the parties interested may derive from the improvements caused by the establishment and maintenance of the water of such lake at the uniform height determined as herein provided. The report of said appraisers, signed by them or by a majority of them who shall concur therein, shall be filed in the office of the clerk of said court as soon as they have completed their award, and shall be made and filed within one month from the date of their appointment, unless said court shall extend the time for such filing.

SEC. 7. After the report of said appraisers shall be so filed, the said board shall give notice as provided in section five (5) hereof, that said report has been so filed, and that said board, on a day specified in said notice, will apply to said court for an order confirming said report. On the day so appointed, the said court, on being furnished with due proof of the publication and posting of said notice, as above provided, shall hear the application of such board, and shall make such order in the premises as shall be just, and in case of the confirmation of said report shall make an order reciting the substance of the proceedings in the matter of the appraisal of the lands and property for which compensation shall be made, and shall also direct to whom compensation shall be made. A certified copy of such order of confirmation shall be recorded in the office of the register of deeds of each county in which any of said lands and property shall be situated.

Court to confirm report of appraisers.

SEC. 8. Any person whose property is designated to be taken under any of the provisions of this act and who deems that there is any irregularity in the action of the appraisers by which the award of the appraisers ought not as to him to be confirmed, or who is dissatisfied with the amount awarded him for the taking of his property under this act, may file with the clerk of said court, in writing, his objection to such confirmation, setting forth therein specifically the particular irregularities complained of, and containing a description of the property in respect to which objection is made, and said written objection shall be filed with the clerk of said court before the time specified in said notice for the confirmation of said report. There shall be no pleading on such objection, but the court shall determine in the first instance whether there was any such irregularity or omission of duty prejudicial to the objector and specified in said written objection, that as to him the award or appraisal of the appraisers ought not to stand. The judgment of the court shall be either to confirm or annul the proceedings only as the same affect the property of the objector designated to be taken

Owners of property may object to appraisal.

and described in such written objection. From such determination no appeal or writ of error shall lie. In case the amount of damages awarded is complained of by said objector, the court shall, in case the proceedings be confirmed in other respects, upon said confirmation appoint three new appraisers, to reappraise said damages. The party to such objection may be heard upon the appointment of such appraisers, and the court shall fix the time and place for the first meeting of such appraisers. They shall be sworn and shall proceed in all respects as in this act provided for the government of the first set of appraisers appointed by said court. The award of such new appraisers shall be final, unless it is set aside by the court for good cause shown, and in case it is set aside, the court may, in its discretion, recommit 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.

When new appraisers may be appointed.

Court may amend defects in proceedings.

SEC. 9. Said court shall have the power at any time to amend any defects or any informalities in any of the proceedings to acquire said lands and property, and also to appoint other appraisers in place of any who, for any reason, may not serve, after such notice as said court may direct.

Board may abandon proceedings.

SEC. 10. Such board shall have the right at any time during the pendency of any proceedings for the acquisition of any lands and property pursuant to this act, or at any time within thirty days after the final order of court upon the last objection determined in any such proceedings, if such board shall deem it for the best interest of the county in which such proceedings are instituted so to do, to abandon all such proceedings in respect to the whole improvement, or any part thereof, except with respect to any such lands and property of which such board shall have taken possession after such confirmation.

To take possession of property.

SEC. 11. Upon the confirmation of the award, as hereinbefore provided, such board shall have the right to enter upon and take possession of the lands and property described in said order of confirmation, and to appropriate such lands and property for any of the purposes in this act, and within six months after the confirmation of such award, unless such board shall abandon such proceedings, the compensation so awarded shall be paid by the county in which said proceedings are instituted, and such board shall cause to be paid to the owner or other persons interested in such lands and property the amount of compensation so awarded therefor, with interest at the rate of seven per cent. (7%)

Compensation with interest.

per annum, from the date of such confirmation, out of the county treasury of such county. If, however, at the end of such six months there shall be pending in court any objection in such proceedings, the time for the payment of the compensation, awarded for all said lands and property, shall be extended until thirty days after the final disposition of the last objection considered in such proceedings, except in respect to lands and property of which such board has taken possession. If in any case such board shall be unable to determine to whom the compensation so awarded shall be paid, or be unable to make tender in any case, or in case of disputed claims in relation thereto, or in case any person to whom compensation shall be awarded shall not be a resident of the state of Minnesota, or if for any other reason it shall seem best so to do, the amount of such compensation in any case may be deposited by such board in said court. Upon the proper application of any person claiming the money so paid into court, or any part thereof, said court shall determine to whom the same shall be paid.

Disputed
claims.

SEC. 12. As soon as the amount required for the purchase and acquirement of said lands and property and the costs and expenses of such board in conducting the proceedings therefor hereunder, together with the amount necessary for the construction of any such dam or dams as such board shall deem necessary for any of the purposes of this act, shall have been ascertained by such board with reasonable certainty, such board shall apply to said court for the appointment of three competent, disinterested freeholders, residents of this state, as assessors of benefits. Notice of such application and of the time when the same will be made shall be served in the same manner as in section five (5) of this act, hereinbefore provided, and all parties interested may appear and be heard by said court touching said appointment. Upon receiving satisfactory proof of the service of such notice, as herein provided, said court shall hear said application, and shall appoint three competent, disinterested freeholders, residents of this state, as assessors, who shall proceed to assess upon such several tracts of land as they shall deem to be specially benefitted by the proceedings herein provided for, whether such tracts shall join or abut upon such lake or not, and without regard to a cash valuation, such sum as they shall deem a just proportion respectively of the total cost of such purchase, condemnation and improvement, and the expenses of such board in conducting such proceedings, and the determination of such assessors as to what tracts and parcels of land are

Assessors of
benefits.

specially benefitted shall be deemed to include all lands so specially benefitted. The court in the order appointing such assessors shall fix the time and place of their first meeting, and said assessors shall meet at the time and place specified in the order appointing them, and shall severally, before proceeding to act under said appointment, take and subscribe to an oath, administered by some person authorized to administer oaths, faithfully and impartially to discharge their duties as assessors under this act to the best of their ability. All persons interested may appear before said assessors and be heard touching any matter connected with said assessment, and said assessors shall hear and consider any pertinent testimony offered, and may adjourn their meeting from time to time until the assessment is completed. When the assessment is completed, it shall be signed by the assessors, or the majority of them who shall concur therein, and shall be returned to and filed with the clerk of said district court.

Meeting of assessors.

Hearings by assessors.

Confirmation of assessment by court.

SEC. 13. Said board shall cause to be served in the manner provided in section five (5) hereof a notice that said assessment has been filed in said clerk's office, and that said board will, on a day specified in said notice, apply to said court for the confirmation of said assessment. Said notice shall set forth the boundaries of the district in which said assessments have been made. Upon due proof that said notice has been served as above provided, said court shall hear said application for the confirmation of said assessment, and the confirmation of said assessment shall bind all persons interested in said lands.

Court may revise assessment, and receive objections.

SEC. 14. 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, 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 in the office of said clerk before the time fixed for the application. Objections that 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.

To file copy of confirmation of assessment.

SEC. 15. After the confirmation of said assessment said board shall cause a copy thereof to be filed in the office of the auditor of each county in which any part

of the lands so assessed shall be situated. The assessment shall be a lien on the several tracts or parcels of land specified therein, for benefits, as aforesaid. The proper officers of the county or counties in which said lands so assessed shall be situated shall respectively include the assessments of such lands in the next general tax list for the collection of taxes made after said copy shall have been so filed, setting opposite each several tract or parcel of land assessed in their respective counties the amounts of the assessments in the proper column, and like proceedings shall be had in all respects for the collection of the same as now provided for the collection of taxes in said county or counties. In case any of said lands so assessed for benefits shall be situated in any other county than the county in which such proceedings are instituted, the county treasurer of such other county shall account for and pay over to the county treasurer of the county in which such proceedings are instituted the amounts so assessed against such lands in such other county as fast as they shall be collected, as herein provided.

Assessments shall be liens on lands.

SEC. 16. In case, by the maintenance of the water in any such lake at the height established in such proceedings, the water in such lake shall be raised above the natural and ordinary high water mark therein, so as temporarily or permanently to affect injuriously, or permanently to take or flow any property, or if in any other way, in consequence of any improvement made pursuant to any proceeding hereunder, there shall be taken or injuriously affected any property other than that for the taking of which compensation has been awarded, as herein provided, then any person whose property is so injuriously affected or permanently taken or flowed shall have the right within six months after such property has been so injuriously affected or permanently taken or flowed, to apply to the said district court for the appointment of appraisers to determine and award the compensation to be made to him by the county in which such proceedings were instituted, for so injuriously affecting or permanently taking or flowing his property, and upon such notice to such board as said court may direct may bring on for hearing before said court a petition for the appointment of such appraisers. Any other person claiming to be similarly affected may join in said petition or intervene in the proceedings thereunder, provided he shall do so within six months from the time when his property was so affected or taken, and any person so similarly affected who shall not so join or intervene in such proceedings, after knowledge that the same are pending, shall, in

Compensation for injury by high water.

Appraisers to determine.

case he shall make any independent application within six months from the time his property is so taken, or injuriously affected, for the appointment by said court of appraisers to determine and award compensation to be made to him by said county therefor, bear all the costs of such independent proceeding. Upon such hearing of such application, said court shall appoint three competent, disinterested freeholders, residents of this state, who shall proceed to determine and award the compensation to be made by said county for so injuriously affecting or permanently taking or flowing the lands described in the application of such person or persons, and for which no compensation has theretofore been awarded under this act. Such appraisers shall proceed in all respects as hereinbefore provided with reference to the appraisers to be appointed upon application of such board, and all of the provisions of this act relative thereto, and to the control and direction of said court over such appraisers and over their award shall apply to the proceedings had under and pursuant to the appointment herein provided for. Upon the hearing of any such application by such person, if such board shall deem it necessary for any of the purposes of this act, it may, with the approval of said court, have said appraisers so to be appointed determine and award such compensation as such appraisers shall deem just to be made for the right permanently so to injuriously affect or flow said property, or for the fee of any such property permanently taken or flowed, or of any part thereof. Such board may also agree with any such person or persons upon the price to be paid for such right, or for the fee of such property, or of any of the same, and if the same shall be approved by said court such board shall be authorized to purchase said right or any of said property at such approved price. The compensation awarded for such property on such application of such person or persons, and finally confirmed by said court, shall be paid by such county, as provided in section eleven (11) hereof. In like manner, as is hereinbefore provided for the assessment, collection and payment of benefits for the property taken by such board hereunder, as often as may be necessary, benefits accruing by the acquisition hereunder of such additional flowage and other rights or property shall be assessed, collected and paid over.

County to
pay compen-
sation.

Compensa-
tion to ap-
praisers and
assessors.

SEC. 17. Said court shall allow a reasonable compensation to all appraisers and assessors hereunder for their service, and make such award of costs on the hearing of all objections as it shall deem just.

SEC. 18. The county attorney of such county, or

such other attorney as such board may designate, shall conduct the proceedings under this act on behalf of such board.

Attorney to conduct proceedings.

SEC. 19. The cost of maintaining such improvements as shall be made under this act shall be borne by the board of county commissioners of the county making such improvements, and such board shall have control and management of such improvements, and shall use and control the same for the best interests of the public. The title of all the property acquired and taken by virtue of the proceedings had under this act shall vest in the board of county commissioners of the county in which such proceedings are taken, upon payment being made therefor, as herein provided, and such title shall be in fee simple or such inferior estate as such board shall designate it intends to take and shall pay for and acquire by such proceedings.

County to pay for improvements and acquire title.

SEC. 20. This act shall take effect and be in force from and after its passage.

Approved April 2, 1897.

CHAPTER 89.

S. F. No. 253.

An act for the reorganization or adjustment of the affairs of insolvent corporations exercising banking powers.

Reorganizing or adjusting insolvent banking corporations.

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

SECTION 1. Whenever any company or corporation exercising banking powers under the laws of this state has or shall have become insolvent, and has or shall have come under the control of any court of competent jurisdiction under an assignment for the benefit of its creditors, or the appointment of a receiver in proceedings to enforce any mortgage, deed of trust, or for the payment of debts, it shall be lawful for a majority in number and amount of the creditors of such company or corporation, exclusive of secured creditors, and of the preferred creditors hereinafter specified, by themselves or by a committee to be appointed by them, to prepare and submit to such court a plan for the re-adjustment of its affairs, or for the reorganization of such company or corporation; such plan shall provide,

Who may submit plan for adjustment or reorganization.

First—For the payments of debts due and owing to the United States and the state of Minnesota.

Provisions.