

Minnesota and hunt without having a license, or who hunts with another knowing he has not procured and is not in possession of a license, or who takes or uses the license of another person or coupon from such license, shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not less than fifty (\$50) dollars, nor more than one hundred (\$100) dollars, or by imprisonment in the county jail not less than thirty (30) nor more than ninety (90) days for each and every offense.

Approved April 26, 1907.

CHAPTER 470—H. F. No. 880.

An Act creating a state drainage commission, for the purpose of draining state lands, and such private lands as may be benefited thereby, providing for assessments for draining private lands, and for straightening, widening, deepening, and cleaning out any stream or water course, and draining any marshy, or meandered lake when the same will be of public benefit or promote the public health; establishing a mode of procedure; defining the duties and compensation of the members of the commission, appropriating money for the purpose of carrying out the provisions of this act, and prescribing penalties for interfering with or obstructing the members of the commission or any officer, agent or employe, in the discharge of his duties connected therewith.

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

Commission.—Section 1. That a commission consisting of the governor, the state auditor, and the secretary of state be, and the same hereby is created, to be known as the state drainage commission. The governor shall be chairman of said commission, and shall preside at all meetings of said commission, and the state auditor shall be the secretary; a majority of the members shall have the authority to act in all matters, and to perform all duties required to be performed by said commission.

Powers and duties.—Sec. 2. The drainage commission of the State of Minnesota shall have power to construct as hereinafter provided, any ditch, drain or other water course within the State of Minnesota, and such ditch, drain or other water course may in whole or in part follow and consist of the bed of any creek, stream, or river, whether meandered or

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not, and they may widen, deepen, straighten, change, lower or drain the channel or bed of any creek, river, lake or other natural water course, whether navigable or whether meandered or not, and may construct new and additional outlets to any marshy, shallow or meandered lake, for the purpose of draining the same, and may follow and extend the same into or through any city or village within the state far enough to secure a sufficient fall and flow of water to reasonably effectuate the purpose for which the work is extended, and may confine any such creek, river or other natural water course by means of dykes, levees and embankments to its natural or artificial bed, as laid out;

Provided, that when in any such proceedings the waters of any creek, river or other water course are diverted from their natural bed by such artificial ditch or drain, such ditch or drain shall as nearly as practicable follow the general direction of such creek, river or water course, and terminate therein. And, *provided, further*, that no meandered lake shall be drained under the authority of this act, except in case such lake is normally shallow and grassy and of a marshy character or except in case such meandered lake is no longer of sufficient depth and volume to be capable of any beneficial public use of a substantial character for fishing, boating or public water supply.

Provided, further, that no meandered lake shall be drained or lowered under the authority of this act unless petitioned for by at least sixty per cent of the legal voters residing within four miles of such lake, who are freeholders, whose lands are affected as shown by the viewers' report and filed in the office of the clerk of the district court of the county in which such proceedings are had.

Chief engineer.—Sec. 3. Said state drainage commission shall appoint a chief engineer who shall be a civil engineer holding a diploma, conferring upon him such degree from a school of good standing in which the science of civil engineering is taught, and who must be a practical drainage engineer, who shall be known as the state drainage engineer, and who shall hold his office subject to the pleasure of said commission, whose salary shall be fixed by the commission. Before entering upon his duties as state drainage engineer he shall subscribe to, execute and file an oath of office and bond in the penal sum of \$5,000, with sufficient sureties to be approved by the attorney general conditioned upon the faithful per-

formance of his official duties. He shall keep complete records of all his surveys and of every official act of said commission. Said state drainage commission shall have the full power to appoint and employ as many agents and servants and assistant engineers, and who shall furnish a bond in the same amount as the chief engineer, and qualify in the same manner, as they find necessary and proper to comply with the provisions of this chapter, and to fix the compensation which shall be allowed for their services.

Petition.—Sec. 4. Before said state drainage commission, shall construct any ditch, drain and water course, or deepen, drain, change, straighten, or lower the channel or bed of any creek, river, lake or other natural water course or other construction named in section two of this chapter, they shall (except as hereinafter provided) file with the judge of the district court for the county or counties wherein it is proposed to construct any ditch, drain or other construction referred to under this chapter, a petition setting forth the necessity thereof, and that it will be of public benefit or promote the public health, with a map showing the route of said proposed construction, estimates of the cost of the same, and description of the lands likely to be affected by such construction, such map, estimates and description of lands to be prepared by the engineer for the drainage commission or under his direction.

Order of court.—Sec. 5. Within ten days after the filing of such petition the said judge of the district court shall make an order appointing two resident freeholders of the county or counties in which said construction is proposed not interested in the construction of the proposed work and not kin to any of the parties known to be interested therein and the state drainage commission shall appoint one who is not a resident of the county, as viewers, to meet at a time and place to be specified by the said court, preparatory to commencing their duties. The viewers after taking their oath to faithfully perform their duties shall proceed at the time fixed in said order, with or without said drainage engineer and shall prepare a tabular statement showing as far as practicable, the names of the owners of each tract of land to be benefited or damaged; the description of each tract benefited or damaged (said names of owners to be the same as appears on the county tax duplicate of said county, and the description to be given in legal form), and the total num-

ber of acres in each of said tracts; the estimated number of acres in each said tract of land to be benefited or damaged, (as the case may be); the number of acres added to any tract by the total or partial drainage of any meandered lake, or by the change of any water course and the location and value of such added land; the damage, if any, to riparian rights pertaining to any tract; and the amount that each tract of land will be benefited or damaged by the construction of said work. When any ditch established under this act drains either in whole or in part any public or corporate road or benefits any such road so that the road bed or travelled track of such road will be made better by the construction of such ditch, the viewers shall estimate the benefit arising therefrom to such roads or road beds, and report said benefits (names of roads and other particulars necessary to identify the corporations, private or public, to be benefited thereby, and amounts of benefits to each), as a part of their tabular statement provided for in this section; and the viewers shall also report as a part of such tabular statement, the damages awarded to each municipal or other corporation for injury to any road or road bed, and from the necessary construction and maintenance of any bridged culverts or other works rendered necessary by the establishment of such ditch, stating the same separately; and they shall also report the total estimated benefits in respect to the entire ditch and branches, if any, and also whether or not, in their opinion the estimated expense of the construction of such ditch, including the damages awarded therefor, are greater than the utility of the proposed ditch, or that the construction of such ditch is impracticable, for any reason, stating the reason why it should not be constructed.

Viewers—disagreement.—Sec. 6. In case the viewers are unable to agree each viewer shall state separately in the report his findings on the matter disagreed upon.

Estimate.—Sec. 7. Whenever a public ditch is located wholly or in part in the bed of a private ditch already or partially constructed the engineer shall make an estimate of the number of cubic yards of earth already excavated on each tract of land and of the amount of the reduction in the cost of constructing the portion of the ditch on each such tract of land by reason of such private drain having been constructed, and the viewers shall deduct such amount from their estimate of benefits, if any, against such tract of land, making an appropriate notation thereof on their report,

Lands benefited.—Sec. 8. All lands benefited by a public ditch, drain or water course, and all public or corporate roads, so benefited, in whole or in part, shall be assessed in proportion to the benefits for the construction thereof, whether said ditch passes through said land or along or near the line of such road or not, and the viewers in estimating the benefits to lands or roads not traversed by said ditch shall not consider what benefits such lands or roads will receive after some other ditch or ditches shall be constructed, but only the benefits that shall be received by reason of the construction of the public ditch, as it affords an outlet for drainage, or prevents overflowing of or otherwise directly or indirectly benefits such lands or roads, and in determining the cost of draining said land or lands, there shall be included the amount paid for damages to private owners of lands, and the cost of right of way of any other ditches through such private land to the main stream, together with the cost of the construction of the ditch, office expenses, field expenses, salaries of all clerks and employes, and all fees necessary paid to officers or other persons in the proceedings.

Parties aggrieved.—Sec. 9. In running said ditch, or ditches, or works through private lands not necessary to drain, it shall be the duty of the viewers to report the amount of damages to be allowed to such owner or owners for the right of way or other damages for the construction of the ditch or ditches through such land or lands. Any person or party interest aggrieved by the amount of damages so allowed or of the disallowance of the amount of damages claimed, or any part thereof, for the land so appropriated for such ditch or laterals, or any other work authorized to be done under this act, may, within ten days after the filing of the viewers' report, petition the district court before whom said proceedings are pending for the appointment of appraisers in the same manner as is now provided by law for the appropriation of private property for public uses, with all the rights and authority incidental thereto, but the construction of any such work, ditch or laterals thereof shall not be delayed by such proceedings.

Report.—Sec. 10. Said viewers shall forthwith file with the clerk of court a report of all their doings and findings in detail, including expenses and the actual time they were engaged. They shall in every case completely perform every duty by this act imposed upon them (except in case of a re-

reference as hereinafter provided) within thirty days from the date of their first meeting; *provided* that, if the water be so high or the weather so inclement, or such unavoidable accident occur as in the opinion of the judge of the district court to practically and reasonably prevent them from so doing, the necessary delay caused thereby may be excused by the said judge; but the report of said viewers must in each case state the reason for such delay, and if such reason be not deemed sufficient by the court such viewers shall forfeit one-half of the compensation hereinafter provided.

Notice.—Sec. 11. Within three days after the filing of such report it shall be the duty of the said clerk of court to prepare and transmit forthwith to the judge of said court, and to the auditor of each county described in the petition a written notice of the filing of such report. Upon the receipt of such notice the judge shall make an order fixing the time and place of hearing said petition and engineers' and viewers' report. He shall also cause a notice of the time and place of such meeting to be given to all persons interested, by publication for three successive weeks prior thereto, in a newspaper printed and published in said county, and by posting at least three weeks before such meeting, printed copies thereof in three public places in each township where the proposed work is located, and one at the door of the court house in said county, of the pendency of said petition, and engineers' and viewers' reports, and of the time and place set for the hearing thereof, which notice shall be signed by the clerk of court, and shall briefly state substantially the starting points and terminal of the ditch, drain, creek or water course and branches, together with a description of the land through which they pass, all as appears by the engineers' report, together with the names of the owners of the land and the names of the municipal corporations that will be affected thereby, as the same appears in the report of the viewers; and within one week after beginning such publication the clerk of the court shall mail a printed copy of said notice to all non-residents of the county named in the viewers' report as affected by such proposed work, whose address is known to him, or can be ascertained by him by inquiry at the county treasurer's office; *provided*, that in all cases in which, for any cause, said notice shall not be given, or in any case said notice shall be legally defective, the clerk of court shall cause the same to be given again, so that the petition may be heard at another special or adjourned meeting, which will occur

more than seven days after the expiration of another notice by the publication, posting and mailing, as provided in the first instance, the date of which meeting and hearing to be fixed by the court.

Hearing—reviewers—findings—damages.—Sec. 12. At the time and place fixed for the hearing, if the court shall be satisfied that notice thereof has been given according to law, he shall proceed to hear and consider the same; and all persons interested may appear and be heard by and before said court. Unless excused by the court, the engineer and at least two of the viewers shall be present at such hearing. If said court, from the report of the engineer and from the report of the viewers, and such other evidence as may be adduced before him, shall find that the engineers' and viewers' report and all other proceedings in the matter have been made and taken, in accordance with the provisions of this act, and that the estimated benefits to be derived from the construction of the work are greater than its total costs, including damages awarded, and that such damages and benefits have been duly awarded and assessed, and that said work will be of public utility and promote the public health and that such reports are complete and correct, he shall, by an order containing such findings, establish such a ditch as specified in the report of the state drainage engineer, and establish and confirm the viewers' report; *provided*, that in case the viewers' report is found to be defective or erroneous in any particular, the judge of the district court shall have authority to remedy such defect by reference to said viewers, if necessary, or otherwise, and to cause the expense of such re-reference, if any, to be assessed, against the land benefited. In case the viewers have not agreed or shall not agree in their findings, the court shall determine the proper findings, and change the viewers' reports accordingly, and *provided, further*, that if it appears from the evidence adduced before the court, that unequal and disproportionate assessments have been made, the matter shall be re-submitted to the viewers who shall proceed summarily, to make the necessary correction under the instructions of the court and forthwith report the same to the court, and thereupon, the court shall, by an order containing such findings, establish such ditch as specified in the report of the civil engineer, and establish and confirm the viewers' report, and shall, in such findings, determine the total cost of the construction of such ditch, drain or water course, laterals and branches thereof, based upon the en-

gineers' and viewers' reports which shall include all the costs and expenses, and fees that may be necessarily incurred in the construction of the same, and connected therewith, all to be allowed by the court, and shall by an order to be made and filed therein, determine the total cost to be equitably assessed against each separate tract or parcel of land owned by the different owners, so benefited by the construction of said ditch, drain or water course, in proportion to said benefits, and the damages, if any, are to be allowed, and to be paid on account of the construction of the same, which shall be included in the cost of the same, in order to arrive at the total cost, which order and findings shall be filed in the office of the clerk of court, of the county where such proceedings are pending, whereupon the clerk of said court shall endorse his filing thereon, and forthwith file a certified copy of the same in the office of the county auditor of such county, and in case such ditch, drain, or water course extends into more than one county, the said clerk shall file a certified copy in each of the said counties.

Provided, that whenever any final order of the court establishing, or refusing to establish, any ditch in proceedings under this chapter shall be set aside, annulled or declared void by any court by reason of a failure to give proper notice of the pendency of said petition, and viewers' report, and of the time and place set for the hearing thereof, or any adjourned hearing, the court shall issue an order at any time within one year thereafter upon application of the state drainage commission for a rehearing thereof, notice of such meeting and rehearing shall be given in the same manner as hereinbefore provided for in the first instance, and at such meeting and hearing the said court shall proceed to reconsider such report, shall act upon the same, and make findings thereon as justice may require, and may re-establish such ditch in conformity with the provisions of this chapter.

Certified copy of order.—Sec. 13. In case any lands belonging to the State of Minnesota, are drained or benefited under the provisions of this act, the clerk of court shall also file a certified copy of the order and findings of the court so far as it affects state lands, but private lands shall not be included in said report, with the state auditor.

Statement—what to contain.—Sec. 14. As soon as practicable after the filing of the certified copy in the office of the county auditor, or county auditors, as the case may be, as pro-

vided for in section 12 of this act, the said auditor or auditors shall make in tabular form a list and statement showing the following facts:

First—The names of the owners of all lands (except state lands), which shall not be included. The names of all public or corporate roads within their respective counties benefited by the construction of such proposed work as appears from the order on file in the proceedings.

Second—The description of said lands as the same appears in such findings, and so affected, together with the total number of acres of each tract according to the assessment rolls and tax lists of such county.

Third—The estimated number of acres in each tract of said land.

Fourth—The estimated amount of benefits and damages to each of said tracts of land, the estimated amount of benefits and damages to each public or corporate road as the same appears in said viewers' report, or as affected by the order of the court made in said proceedings.

Fifth—The amount that each of said tracts of land, and that each of said corporate roads so benefited will be liable for and must pay into the treasury of each county for the location, construction and establishment of such ditch, drain or water course, as shown by the order of the court on file in said petition.

Statement—public roads.—Sec. 15. Such statement shall then be signed by the auditor in the presence of two attesting witnesses, and shall then be duly filed with and recorded by the register of deeds of such county. The amount which each tract of land and each public or corporate road will be liable for, and the interest thereon, as hereinafter provided, shall be and remain a first and paramount lien on such land, public or corporate roads, until fully paid; and shall take precedence of all mortgages, charges, encumbrances or other liens whatever, such payments may be made as hereinafter provided. Such filings shall be deemed notice to all parties interested of the existence of such lien. The fees of such register of deeds for such recording shall be paid by the county, on the allowance and order of the court by auditor's warrant, and said statement, after the same has been recorded, shall be returned to the auditor, to be by him placed

with the other papers relating to such ditch, and carefully preserved by him.

Costs and disbursements.—Sec. 16. Any land owner aggrieved at the decision and amount finally assessed against his said land on account of the construction of the said ditch, or on account of the disallowance in the amount of damages claimed for right-of-way or other damages, may demand a jury trial. The costs and disbursements of such trial shall be taxed against the party demanding such trial in case he fails to increase the amount of the award for damages or decrease the amount of the assessment.

Appeal—order.—Sec. 17. Any party may appeal from the judgment of any appealable order of the district court, or who claims damages or against whose property benefits are assessed may appeal to the supreme court as in civil actions from any final order except an order establishing such ditch, or drain in proceedings under this chapter, within thirty days after the filing of such order, by filing the notice of appeal and bond required as in civil actions upon appeal to the supreme court. The appellant shall also serve a copy of the notice of appeal and appeal bond on the respective attorneys in the proceeding, the attorney general of the state, also upon the clerk of the district court, and file proof of such service and the original notice with the clerk, whereupon the said clerk shall certify the case to the supreme court in the same manner as in other cases appealed to said court. In case the appellant prevails in the supreme court, and the cost of the construction of said ditch, drain or water course is increased on account of said appeal, having been determined in favor of said appellant, and damages or costs are awarded to the appellant, upon a remittur from the supreme court to the district court the clerk of the district court shall notify the judge of the judicial district wherein said appeal was taken, advising the court of the action of the supreme court in the proceeding, whereupon the judge of the district court shall make a further finding and order assessing the amount against the tracts of land originally assessed for the construction of the said ditch and proportionately distribute the same, in proportion to, and in the same maner as the original assessment. The clerk shall thereupon certify the same to the county auditor, or county auditors as the case may be, and the said county auditor or auditors shall cause the same to be spread upon the tax duplicate record, and a statement thereof to be filed in the regis-

ter's office in the same manner as under the original assessments.

Advertising for bids.—Sec. 18. At the time of filing of the order and findings by the court, as provided for the general assessment, the clerk of the district court shall also furnish a certified copy thereof to the drainage commission of the State of Minnesota, whereupon said drainage commission shall proceed to advertise for bids for the construction of any proposed ditch or lateral, or for the repairing, extending, deepening, strengthening, altering, or clearing out any ditch, river or natural water course proposed to be repaired, extended, deepened, altered, or cleaned out, or for the construction of new and additional outlets, for the purpose of draining any shallow, marshy, or meandered lake, or draining any lake or body of water that has been caused to overflow, on account of additional drains or water courses, running into the same which have been constructed for the purpose of the drainage of land or for the benefit of the public health. Said bid shall be made with reference to plans and specifications to be furnished by said commission and the contract for the construction of said works shall be let to the lowest responsible bidder. The successful bidder shall be required to furnish good and sufficient bond for the faithful performance and construction of such work, and the payment of all labor, material and supplies furnished in the construction of such ditch, or in such repairing, extending, deepening, straightening or clearing out any of such ditch, or work authorized to be done under this act. Payment shall be made as said work progresses, and in accordance with the rules that may be adopted by said drainage commission, or specified in the contract. Such contracts and rules shall be approved by the attorney general of the state. Before the final payment is made the ditch or work under contract for construction shall be carefully inspected, and the work approved by the state drainage commission, and in case the contractors and the state drainage commission cannot agree upon the approval of said contract they shall have the authority to submit the same to any competent disinterested civil engineer whom they may agree upon, whose compensation therefor shall be paid one-half by the contractor, and the balance out of any appropriation available for draining state lands upon the warrant of the state auditor approved by the state drainage commission and whose decision when filed in the court where the proceedings are had shall be final.

Terms defined.—Sec. 19. Whenever the word "ditch" is used in this act it shall be construed to mean "ditch," "drain," "creek," "pond," "water course," "outlet," "river," (whether navigable or otherwise), "lake," (whether navigable or otherwise), and the word, "ditch," shall mean "ditches," whenever the sense requires it.

Supervision.—Sec. 20. Any and all work provided for in this chapter shall be done under the constant supervision and inspection of the engineer of said commission, or any assistant engineer duly appointed by said commission.

Damages—how estimated.—Sec. 21. The viewers and engineer shall have the right to enter upon any lands for the purpose of making preliminary surveys or locating such ditch or estimating damages and to do any act necessary for the proper performance of their duties and any person attempting to prevent or interfere with them in so doing shall be punished, upon conviction, by the court as for a misdemeanor.

Drainage commission and county boards.—Sec. 22. The drainage commission of the State of Minnesota, is hereby authorized to co-operate with the county board of each county wherein a county ditch or judicial ditch, or a portion thereof is located, or may be located, in enlarging, extending, repairing or otherwise bettering any such ditch now completed, or that may be now in the course of construction, or hereafter constructed, or in deepening, widening, straightening, or otherwise improving, any natural water course into which the water of any county, judicial or state ditch flows, or in the construction of additional outlets to any lake, or body of water, or meandered lake that has become overflowed by reason of additional drain, and ditches having been constructed into the same, and the waters flowing therefrom into such lake, body of water, or meandered lake, causing the said lake, body of water, or meandered lake, to overflow and damage abutting and adjacent land, whenever in their judgment it is necessary and desirable so to do.

Assessments.—Sec. 23. The county board in each and every county in this state wherein any such state or judicial ditch is proposed to be wholly or partly located and established shall issue the bonds of their respective counties in an amount equal to the assessments against the private lands and corporations in their respective counties to defray the expenses incurred or to be incurred in locating, constructing

and establishing so much of any ditch as may be located within such county; or in such relation to such county as to affect lands therein, within the terms of this act. The word "expense" shall be construed to mean and to cover every item of the cost of said ditch from its inception to its completion and all fees and expenses incurred in pursuance thereof. Such bonds shall be payable at such time or times not to exceed twenty years from their date, and shall bear such rate of interest not to exceed six per cent per annum, payable annually or semi-annually, all as the county board shall by resolution determine. Each bond shall contain a recital that it is issued by authority of and in strict accordance with the provisions of this act, and shall be signed by the chairman of said board and countersigned by the county auditor, who shall keep a record thereof.

Said county board shall have power to negotiate said bonds as they shall deem for the best interests of said county, but not for less than their par value. The proceeds from the sale of all such bonds shall be paid to the state treasurer and by him credited to the state drainage fund, which is hereby created.

Bonds.—Sec. 24. The amount that each tract of land, public or corporate road, shall be liable for on account of the location, construction and establishment of any ditch or ditches under the provisions of this act shall bear interest from the date of the filing of the auditor's statement in the register of deeds office at the rate of six per cent (6 per cent) per annum until paid: *provided*, that when bonds are issued by the county for the construction and establishment of such ditch the same rate of interest shall be charged as said bonds so issued bear, and said interest shall constitute an additional lien on said lands or roads until fully paid, which said interest when about to be paid shall be computed by the county auditor, providing that if said bonds are sold at a premium, such premium shall be used as far as may be to make up any deficiency in the assessments levied by the presiding judge of the court in the proceedings, and the balance remaining of such premium, if any, shall be used as far as practicable in keeping such ditch in repair and free from obstruction, so as to answer its original purpose.

Payment of lien.—Sec. 25. The payment of such liens shall be made to the treasurer of said county as follows:

One-fifteenth of said principal, with interest thereon, on or before five years from said filing in the register of deeds office.

One-fifteenth of the same on or before six years.

One-fifteenth of the same on or before seven years.

One-fifteenth of the same on or before eight years.

One-fifteenth of the same on or before nine years.

One-fifteenth of the same on or before ten years.

One-fifteenth of the same on or before eleven years.

One-fifteenth of the same on or before twelve years.

One-fifteenth of the same on or before thirteen years.

One-fifteenth of the same on or before fourteen years.

One-fifteenth of the same on or before fifteen years.

One-fifteenth of the same on or before sixteen years.

One-fifteenth of the same on or before seventeen years.

One-fifteenth of the same on or before eighteen years.

One-fifteenth of the same on or before nineteen years.

All reckoned from the date of said filing; *provided*, where the annual installment to be assessed amounts to less than one mill per year, the auditor shall levy the amount of one mill per year for as many years as is necessary at that rate to pay the full lien levied against the tract or parcel of land. On or before the 15th day of November, of the fourth year next following such filing the auditor shall enter on the tax list of said county the amount of such lien then remaining unpaid against each respective tract of land subject thereto, as a tax on said tracts, with a proper notation to secure the successive entry each year thereafter of the unpaid balance of such lien.

One-fifteenth of said taxes shall become due and payable, with accumulated interest thereon, at the time and in the manner and be subject to and be collected with like penalties as all other taxes for said year on said tracts in which such entry was made, and another one-fifteenth with and as the taxes of each successive year, until all is paid.

The provisions of sections 23 and 25, as amended, shall be applicable in all proceedings for the construction of ditches heretofore commenced, and prosecuted under the provisions of this act where bonds have not been issued.

When payment of the full amount of such lien, with accumulated interest, shall thus or at any time be made, the auditor, upon presentation of a receipt from the treasurer to that effect, shall issue, under his hand and official seal, a certificate of such payment, and the same, when recorded in the office of the register of deeds, shall release and discharge said lien of record.

Authority of bond.—Sec. 26. A majority of the members of said drainage commission of the State of Minnesota, shall have authority to act in all matters, and perform all duties required of the commission to be performed pertaining to the drainage of the state lands, and such private lands as they may be compelled to pass through in draining said lands, and shall from such records and surveys as are now in existence, and from such surveys and records as they may find it necessary to make, ascertain the number of acres of low or wet lands belonging to the state, that it is necessary to drain in order to protect the public health, convenience, and welfare of the community, and to make said lands fit for agricultural purposes. They shall ascertain where the same are located, and what ditch or ditches are necessary to drain said land, and said commission is hereby authorized, empowered by a majority of the members thereof, and without any petition or judicial procedure provided for in section four (4) of this act to construct as many main and lateral ditches of the size and capacity as are necessary to effectually drain such land. They may repair, extend, deepen, and alter or clean out any ditch heretofore or hereafter constructed, by the state or under its direction, when necessary to drain the land originally intended to be drained by such ditch. The said commission, in its discretion, shall drain the state lands that are most accessible to highways, villages and railroads before draining such lands more remote. In the execution of the provisions of this chapter the said commission may appoint as many agents and employes as are necessary to comply with the provisions herein.

State lands.—Sec. 27. Wherever the said drainage commission shall find the State of Minnesota owns land in sufficient bodies to warrant a state ditch, it shall proceed to de-

termine the course of said ditch, the size thereof as to depth and width at the top and bottom, and cause an accurate survey to be made upon the ground, with stakes, on which shall be written in plain figures the station number and the amount in feet, to be cut. These stakes shall be set at least every one hundred feet. Every main ditch shall run to some permanent water course, stream or lake, of sufficient size to carry the water coming into the same from such ditch without overflowing the banks thereof at high water mark. Said commission shall also cause a map of such ditch to be made on a uniform or convenient scale showing the location of said ditch, all topography for a width of at least one-quarter of a mile on each side, the depths of soundings made in marshes and lakes, and designate the character and kind of surface and subsoil, so far as the same may be readily ascertained, and the legal subdivision of all lands drained by such ditch, and if the same passes through or drains private lands, said map shall show the names of all the owners, so far as known or can be ascertained, and if unknown, to so state; said map shall also designate what private lands (if any) are drained and what private lands (if any) are not drained by said ditch. All topographical features to be located by actual survey to the center line of the ditch.

Said commission shall also cause a profile of the center line of said ditch to be made, which, as to details, will at least show the elevations of the natural surface at each station of one hundred feet or any necessary fraction thereof, or as nearly as practicable, the elevations of the grade line; the ratio of the grade; the cutting at each station; the elevation and description of permanent "bench marks," of which one shall be established at each end of the ditch, and one as nearly as practicable midway between the source and the outlet. Where natural objects do not exist upon which to make such "bench marks," artificial posts shall be set in a stable, and permanent manner for such "bench marks." All elevations, as far as possible or practicable to be referred to the standard datum of sea level. Said map, profile and specifications signed by a majority of the members of said commission shall be filed in the office of the state auditor, and certified copies thereof filed with the auditor of each county in which said ditch is to be located.

Draining of rivers and streams.—Sec. 28. Whenever in any drainage proceeding under any laws of this state where-

by the cost of construction is assessed against the benefited property (or) corporations it is proposed to widen, deepen, straighten or clean out any river or other natural water course or drain any low, shallow or grassy lake, or any body of water that has become overflowed by reason of the water from ditches previously constructed, under any drainage act, flowing into the same causing damage to abutting and adjacent lands, or by which it is proposed to promote the public health and which will be of public benefit and general utility; and said state drainage commission shall be satisfied that it is expedient and necessary, they are hereby authorized and empowered to appropriate out of any state drainage funds which may be created by law sufficient to defray not to exceed one-half of the actual cost and expense of doing such work.

Provided, that no contract for said work shall be let without the approval of the state drainage commission.

Powers of district court.—Sec. 29. The judges of the district court of the state before whom any petition may be filed under the provisions of this act shall have power to make any order necessary from time to time in any proceedings hereunder or modify the same as justice may require at any time during the pendency thereof and shall not lose jurisdiction of the proceedings by reason of failure to give proper notice of failure to hold any hearing noticed or ordered to be held for the consideration of any matter connected with the proceedings or committed to them, and may make any new and additional order in the premises as justice may require, to bring the parties interested before them, to promote the final completion of the ditch or works petitioned for or to establish and complete any state ditch, drain or water course, or drain any marshy or meandered lake under the provisions of this act.

Acts made unlawful.—Sec. 30. It shall be unlawful for any person to interfere with or obstruct the said state drainage commission, or any officer, servant or employe thereof, or of the court from entering upon the land for the purpose of making a survey for the purpose of establishing any ditch, drain or water course, or interfere with or obstruct the viewers appointed by the court or said commission, or other person lawfully engaged in constructing said ditch, drain or water course. Any person found guilty thereof, shall be punished as if for a misdemeanor under the statutes.

Traveling expenses.—Sec. 31. The members of said commission shall receive their necessary traveling expenses for attending meetings of the commission, viewing or inspecting the work or proposed work or other duties connected therewith.

Secretary.—Sec. 32. The secretary of the commission, shall keep complete records of the proceedings of the commission, and of all surveys and work constructed under this act, which records shall become a part of the state auditor's office. He shall, when requested, or his duties require him so to do, certify to any record or proceeding on file in the office of the secretary, and shall be allowed his necessary expenses, and costs of all necessary books and record blanks, stationery and other expenses or disbursements paid out by him for the purpose of procuring such records, or in the discharge of his duties as such secretary, and in addition thereto, he shall be allowed such fees and compensation for extra services so rendered, or for necessary clerk hire, as to the members of the commission shall seem just and reasonable. All other officers or persons performing any services in any proceeding, except the judge of the district court, shall receive reasonable compensation to be allowed by the commission, except contractors, payments to whom shall be made as provided for in section eighteen (18) of this act, and all bills or claims, including expenses of the engineers and viewers, shall be audited by the commission, and paid by warrant, drawn by the secretary and countersigned by the chairman of said commission, and paid out of the state drainage fund hereinbefore provided for.

Construction.—Sec. 33. This act shall be liberally construed so as to promote the public health, the construction and improvement of roads, and the drainage and reclamation of wet and overflowed lands.

Acts repealed.—Sec. 34. Chapter 106, General Laws of 1905, are hereby repealed.

Sec. 35. This act shall take effect and be in force from and after its passage.

Approved April 26, 1907.