

The notice herein provided for shall be sufficient if substantially in the following form:

Notice of Expiration of Redemption  
Office of the County Auditor

County of.....State of Minnesota.

To.....

You are hereby notified that the following described piece or parcel of land, situated in the county of.....and state of Minnesota, and known and described as follows, to-wit: .....is now assessed in your name; that on the.....day of May, A. D..... at the sale of land pursuant to the real estate tax judgment, duly given and made in and by the district court in and for said county of..... on the.....day of March, A. D....., in proceedings to enforce the payment of taxes delinquent upon real estate for the year.....for said county of..... the above described piece or parcel of land was sold for the sum of .....and the amount required to redeem said piece or parcel of land from said sale exclusive of the cost to accrue upon this notice, is the sum of.....and interest, at the rate of..... per cent per annum from said.....day of..... A. D....., to the day such redemption is made, and that the said tax certificate has been presented to me by the holder thereof, and the time for redemption of said piece or parcel of land from said sale will expire sixty (60) days after the service of this notice and proof thereof has been filed in my office.

Witness my hand and official seal this....day of....., A. D.....

(Official Seal.)

County auditor of ..... County, Minnesota.

Approved April 25, 1919.

CHAPTER 471—S. F. No. 1043.

An act to amend Chapter 44, and amendments thereto, of the General Statutes of Minnesota of 1913, relating to drainage as follows: Add to said chapter certain sections to be known as 5541-A. Directing the public examiner to adjust the drainage fund accounts in various counties and providing for the payment of the expense thereof; 5548-A. Relating to the division and apportionment of assessments, 5552-C. Providing for the making and filing of a plat of tile drainage systems, 5597-A, 5597-B, 5597-C, 5597-D, 5597-E and 5597-F. Providing that the overflow from certain municipal sewage systems may be discharged, under certain restrictions into

*drainage ditches and 5672-B. Providing for additional assessments and bond issue to finish paying cost of ditch under certain conditions. Amend Sections 5480, 5482, 5529, 5532, 5597 and 5635 of the General Statutes of 1913, and also Sections 5481, as amended by Chapter 273 of the General Laws of 1915, 5541, 5571 and 5636 of the said General Statutes of 1913, as amended by Chapter 441 of the General Laws of 1917, and 5552-A, and 5552-B as contained respectively in Sections 14 and 15 of Chapter 441 of the General Laws of 1917. Said sections above specified relating to public ditches and the drainage of lands. The assessment of damages and benefits resulting therefrom, providing for rehearings of petitions for ditches, providing for drainage into drainage ditches already established. Creating the Department of Drainage and Waters, providing for officers and defining their duties, prescribing the duties of engineers and state and county officials so far as the same relates to drainage and drainage ditches, providing for appeals in certain cases, providing for the payment of the cost of labor and material and allowance of claims, providing for payment of bridges over drainage ditches under certain conditions and repealing certain sections.*

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

Section 1. Department of drainage and waters.—That section 5480 of chapter 44 of the General Statutes of 1913, be and the same hereby is amended so as to read as follows :

Section 5480. *There is hereby established a department to be known as the Department of Drainage and Waters, the chief officer of which shall be known as the Commissioner of Drainage and Waters. He shall be appointed by the governor and shall hold his office for a period of four years and any vacancy occurring in the office from any cause shall be filled by appointment by the governor. Said commissioner before entering upon his duties shall take the oath prescribed for state officials and shall give bond with proper sureties to the State of Minnesota in the sum of ten thousand (\$10,000) dollars conditioned for the faithful performance of his duties and accounting for all moneys, that may come in his hands as such commissioner, which bond shall be approved by and filed with the secretary of state.*

*Said commissioner shall be a practical drainage engineer experienced in drainage and hydraulic engineering, of high standing and recognized ability; he shall devote his entire time to the duties of his office and shall receive a compensation of four thousand (\$4,000) dollars per annum payable as in the case of other state officers; he shall be provided with proper office and equipment at the seat of government and shall have and may exercise the authorities and perform the duties herein provided.*

*The commission heretofore known as the "State Drainage Commission" is hereby abolished and all power and authority heretofore*

*vested in such commission under chapter 44 of the General Statutes of 1913 and amendments thereto, is hereby vested in said commissioner of drainage and waters and said commissioner is hereby authorized to exercise all the power and authority specified and granted to the state drainage commission by said chapter 44 of the General Statutes of 1913, and in addition thereto, those hereinafter specifically enumerated; and in all cases where the term "drainage commissioners" or "state drainage commissioners" is used in said chapter, the same shall be understood to mean and read "commissioner of drainage and waters," and in all cases where the term "commission" is used in said chapter meaning and referring to the state drainage commission, the same shall be read as "commissioner" and said act construed accordingly.*

**Sec. 2. Power of commissioner.**—That 5481 of said General Statutes as amended by chapter 273 of the General Laws of 1915, be and the same hereby is amended to read as follows:

5481. *The commissioner of drainage and waters established by this act, shall have power to construct as hereinafter provided, any ditch, drain or other watercourse within the state of Minnesota, and such ditch, drain or other watercourse may in whole or in part follow and consist of the bed of any creek, stream or river, whether meandered or not, and he may widen, deepen, straighten, change, lower or drain the channel or bed of any creek, river, lake or other natural watercourse, 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 watercourse by means of dykes, levees and embankments to its natural or artificial bed, as laid out, and shall also, whenever it shall appear to its satisfaction that the drainage of any territory may be made more effective by the construction and maintenance of dams, or other works, for retaining and controlling the flood waters tributary to such territory, have the power to construct or acquire such dams or other work, and flowage rights therefor, and to maintain and operate the same;*

*Provided, that when in any such proceedings, the waters of any creek, river or other watercourse 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 watercourse, 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.

*Said commissioner of drainage and waters in addition to the authorities now granted under the provisions of said chapter 44 of the General Statutes of 1913, is hereby authorized to make all necessary investigations to ascertain and determine the topographical features of the various watersheds of the state, viz.: the several tributaries of the Minnesota and Mississippi rivers and other rivers of the state, and ascertain and determine the works necessary to secure proper drainage outlet for the lands in each basin and the construction of the necessary works to improve such outlet and to control flood waters therein, including as near as can be ascertained the probable run-off waters of each of said basins and the important streams entering therein and shall ascertain and secure the necessary facts to determine what streams have natural facilities adapted to the creation of water power and the extent of horsepower that can be so secured, or other information that said commissioner shall deem necessary and essential to the proper planning of the work of each basin to supply proper drainage outlet and control of flood waters, including the conservation and use of such waters.*

*Said commissioner shall also ascertain and secure the necessary information from the various parts of the state to enable him to make and furnish to the engineers of the state all necessary information as to the proper size of tile and the discharge thereof under various conditions, including information as to the proper size and discharge of open ditch construction and such information shall be included in the rules to be furnished and followed as provided in section 1, chapter 441 of the Laws of 1917.*

Sec. 3. Records of surveys, deputies and assistants.—That section 5482 of Chapter 44 of the General Statutes of 1913, be and hereby is amended so as to read as follows:

Section 5482. *Said commissioner shall keep complete record of all surveys and investigations made by him or under his direction and of all reports made to him by other engineers connected with drainage work throughout the state as required by law. He shall have power to appoint and employ a deputy commissioner whose compensation shall be not to exceed three thousand (\$3,000) dollars per annum and such other assistant engineers, agents and employes as may be found necessary and proper to comply with the provisions*

*of this chapter and shall require of all deputies and assistant engineers in charge of the work to execute and file with the commissioner a bond conditioned for the faithful performance of their duties in such sum as the commissioner may specify.*

**Sec. 4. Assessments.**—That section 5529, General Statutes of Minnesota 1913, be and the same hereby is amended so as to read as follows:

5529. All lands benefited by a public ditch, drain or water-course, and all public or corporate roads or railroads so benefited, in whole or in part, shall be assessed in proportion to the benefits for the construction thereof, whether said ditches pass through said lands or along or near the line of such roads or railroads or not, and the viewers in estimating the benefits to lands, roads or railroads not traversed by said ditch shall not consider what benefits such lands, roads or railroads will receive after some other ditch or ditches shall be constructed, but only the benefits that will be received by reason of the construction of the public ditch as it affords an outlet for the drainage, or prevents the overflowing of or otherwise directly benefits such lands, roads or railroads. All lands owned by the state of Minnesota or any department thereof benefited by such ditch, drain or water course shall be liable for such benefit, the same as taxable land, *provided a notice of the filing of a petition and of the time and place of hearing, and a notice of hearing on viewers' report shall have first been served on the state auditor as in the case of individual landowners.* The sum of \$5,000.00 for the year 1909 and annually thereafter, or so much thereof as may be necessary to meet all assessments against state lands under this act is hereby appropriated out of the general revenue fund for that purpose.

**Sec. 5. Confirmation of viewers' reports.**—That section 5532 of the General Statutes for 1913, be and the same is hereby amended so as to read as follows:

5532. If such county board or district judge, as the case may be, from the original, or if amended, then from the amended report of said engineer and viewers, and from such other evidence as may be adduced before them, shall find that the engineer's report and the viewers' report have been made, and all other proceedings in the matter have been had and taken, in accordance with the provisions of this act, and that the estimated benefits to be derived from the construction of the said work are greater than the 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 or benefit, or will promote the public health, and that such reports are complete, just and correct, then such board or judge of the district court shall by an order containing such findings, establish such ditch as specified in the original, or if amended, as specified in the amended report of the civil engineer,

and shall by such order establish, adopt and confirm the original, or if amended, then the amended viewers' report. In case a majority of the viewers have not agreed or shall not agree in their findings, the county board or district judge as the case may be, shall determine the proper findings and amend and adopt or confirm the viewers' report accordingly.

*Provided, however, that in event the final hearing on any ditch petition and the engineer's and viewers' reports came on to be heard before the county board or the judge of the district court, as the case may be, between April 6, 1917, and November 11, 1918, and an order was thereafter made refusing to establish said ditch, or dismissing the petition, that the said proceeding maybe revived and the matter brought on for hearing de novo at any time within two years from the passage of this act by the following procedure: A new petition and bond, as required by section 5525, General Statutes Minnesota 1913, as amended by chapter 441, section 4, General Laws of Minnesota for 1917, and referring to the engineer's and viewers' reports in the said proceeding and requesting that the said reports shall be brought on for hearing de novo shall first be filed in the same office as the original petition and bond were filed, thereupon the board or court having jurisdiction in the first instance, shall be reinvested with jurisdiction in the matter the same as if the said proceeding had never been brought on for hearing and dismissed, and the said board or court shall thereafter, and within ten days after the filing of said petition, order notice of the final hearing to be given as provided by section 5531 of the General Statutes of Minnesota for 1913. At such final hearing the board or court, as the case may be, shall proceed to hear and determine said matter de novo.*

**Sec. 6. Inspection by engineer and report to be made—Payments.**—Amend section 5541 of the General Statutes of Minnesota for 1915, as amended by chapter 441 of the General Laws of Minnesota for 1917, so as to read as follows:

5541. It shall be the duty of the engineer on being notified by the contractor that his job is completed, to inspect the same, and if he finds it complete according to the contract, plans and specifications he shall report that fact to the county board or court, as the case may be, and give to the contractor a certificate stating that said section or sections (by number) or other jobs of construction, are completed according to the contract, plans and specifications as set forth in the report of said engineer.

Provided, that when the work for which such certificate is to be issued, affects more than one county, proportionate certificates shall be issued to each county. Upon the filing of such report of the engineer that any ditch or job has been completed, the board or court shall fix a day when it will meet or hear the same, of which meeting ten days' notice by mail shall be given by the

auditor or clerk of court to all the land owners whose lands are assessed for benefits by the construction thereof, who are residents of the county, or whose postoffice address is known. Service of such notice shall be sufficient if the same is mailed ten days before the date of such hearing; whereupon, if approved by the county board or court, as the case may be, and upon presentation and surrender of said certificate with such approval endorsed thereon to the auditor or clerk of the proper county, said auditor or clerk shall draw a warrant on the county treasurer of his county, in case of the auditor, and of the separate counties in case of clerk, for the proportionate amount found to be due from such county on said contract, according to such preliminary certificate, as herein provided; and that said warrant shall be paid out of the general ditch fund to be provided by the county board as hereinafter specified. Said warrant shall become due and payable out of said funds at once, and if there shall be no cash in said fund to pay said warrant when the same is presented the county treasurer shall endorse said warrant "Not paid for want of funds" and date and sign such endorsement, and the amount of said warrant shall draw interest at the rate of six (6) per cent per annum until called in by the treasurer or auditor of said county and paid.

At any time during the progress of the work of construction, the engineer may issue preliminary certificates for work done and approved or for material or supplies furnished and delivered along the line of said proposed ditch, or otherwise delivered according to the contract therefor and to be used for the construction or installment of tile or other enclosed drains or for bridges or culverts along the line of and as a part of said proposed ditch system; which preliminary certificates shall contain the station number or numbers of the work covered by such certificate, the actual yardage of the excavation certified, and the total value thereof according to the contract of construction, or in case the same is for material furnished, then an estimate of the total value of such material according to contract. Such certificates shall further show the percentage of such total value of the work or material to be paid by the county or counties, and if the proportion has been fixed by the district court, such certificate shall further show the proportion of such total value to be paid by the respective counties. Such certificate shall be executed in duplicate by the said engineer, or in such number as may be necessary and as many thereof marked "duplicate" shall be delivered to the contractor as there are counties affected, and such engineer shall further file one thereof with the county auditor of each county affected; provided, that except as hereinafter provided, no engineer in drainage proceedings shall by preliminary certificate certify or recommend for payment, and no county auditor shall cause to be paid a sum exceeding 85% of the total value of work done and approved, or exceeding 85% of

*the total value of bridge and culvert material or other material or supplies furnished or delivered as such total value is shown by such preliminary certificate; but such materials and supplies shall be delivered only as required for use in the course of construction, and at such reasonable times and in such reasonable quantities as the engineer shall determine and direct;*

And provided, further, that when the excavation work thereof on an open ditch or the construction work thereof on a tile system exclusive of the tile furnished shall be 50% or more completed, and the contract of construction shall not be in default the engineer shall issue a further preliminary certificate allowing to the contractor  $33 \frac{1}{3}$  of the retained 15% on excavation or construction and of the retained 15% on material and supplies, except for tile furnished to the contractor in the construction of the ditch, and thereupon the auditor shall issue his warrant therefor payable as herein provided for payment of warrants issued after the full completion of the contract of construction, and this proviso shall apply as well to work now under construction as to contracts hereafter to be made.

*And provided, further, in case of the construction of an open ditch where the contract provides for the construction of highway bridges across the ditch, when any such bridge has been completed and opened for public use and has been finally accepted by the county board, then the contractor shall be entitled to full payment therefor.*

In case where the total estimated cost of construction of any such drainage ditch shall exceed the sum of \$30,000.00 and where fifty per cent (50%) of the total amount of said excavation as shown by the engineer's report is complete and where the contract is not in default, the engineer may issue a further preliminary certificate setting forth the total value of previous construction work theretofore certified as complete by the engineer, the total amount of warrants issued to such construction contractors for such work, the total balance of sums retained by the county or counties involved, from preliminary estimates theretofore made, and the total percentage of the yardage of excavation theretofore finished and certified by engineer and the proportion of the cost of construction to be paid by the respective counties if more than one. Such further preliminary certificate shall be executed, delivered and filed by the engineer as other preliminary certificates provided for in this section and upon presentation thereof to the county auditor, such auditor shall thereupon forthwith issue to the contractors presenting the same his warrants for such county's proportionate share of 75% of the balance of such sums retained by the county or counties involved from preliminary estimates theretofore made as set forth in such further preliminary certificates provided for in this paragraph, provided that in case of ditch



proceedings wherein the contract of construction has been entered into prior to the passage of this act, before the issuing and delivering of the said warrant to such contractors there shall be filed with the said county auditor the assent thereto in writing of the surety on such contractor's bond, such assent to provide that such payment upon such preliminary certificates shall not in any manner affect or reduce the liability of such surety upon such contractor's bond.

The provisions of this action shall apply to all public ditch proceedings heretofore or hereafter instituted, under any law of this state, except state and township ditches.

Provided, that no certificate or certificates of partial completion or of furnishing of material shall be furnished or delivered by the engineer unless the said certificate or certificates shall be accompanied by the engineer's written certificate that no loss will result from such partial payment. Provided, further, that the county or counties paying a preliminary estimate of the engineer on material furnished or delivered shall have a lien on the said material to the amount of all payments made thereon by such county or counties.

Provided, that the said certificate or certificates of the engineer in the matter of any county or judicial ditch proceedings of any other estimate or certificate required under any of the drainage laws of this state to be made by him, shall not constitute prima facie or other evidence of the truth of the contents thereof, or of the completion of any ditch or any part thereof by the contractor or otherwise, or of the fulfillment of the contract or part thereof.

It shall also be the duty of the engineer to inspect the laying of tile, excavation and all other work of construction from time to time, as provided for in the specifications and provisions in his report and as provided for in the contract for construction, and every thirty days during the progress of the work to report in writing to the county board or the judge of the district court as the case may be, as to all work completed since the last prior report, and his services for making such inspection shall be paid for at the rate and in the same way as his services in making his original survey and report.

**Sec. 7. Liens and payments.**—That chapter 44 of the General Statutes of Minnesota for the year 1913, relating to drainage be amended by adding thereto another section after section 5548 to be known as section 5548-A, relating to the division and apportionment of ditch assessment liens in certain cases, as follows:

5548-A. In all cases in which a lien has been established against any tract or tracts of land comprising more than one governmental lot or forty-acre subdivision by reason of benefits assessed thereon in any drainage ditch proceeding and no installment of such assessment or interest thereon shall be in default.

any person or corporation having an interest in said land, or any part thereof, may petition the district court of the county wherein such land is situate to have such lien apportioned between or among specified portions of such tract or tracts. Upon the filing of such petition the court shall, by its order fix a time and place at which said petition shall be heard and requiring personal service of a notice of such hearing to be served upon the county auditor, the occupants of such premises and on all parties having an interest in said premises as shown by the records in the office of the register of deeds of such county at least ten days before such hearing; or if for any reason personal service cannot be made upon all of said persons, notice shall be given by two weeks' publication in a legal newspaper published at the county seat of such county in lieu of personal service. At the time and place appointed by the court for a hearing upon such petition or at the time to which such hearing may have been adjourned, the court shall hear any and all evidence bearing upon the matter set out in said petition and as to what will be a proper and equitable apportionment of said lien between or among the portions of such original tract which it is desired shall be encumbered by separate liens and shall thereafter by its order apportion such lien among such tracts, but in no case shall the aggregate of said separate liens be different from the amount of the unpaid portion of the original lien. A certified copy of the order apportioning said lien shall be recorded in the office of the register of deeds of such county and filed in the office of the county auditor which shall operate as a division and apportionment of such original lien between such various tracts of land originally covered thereby and shall operate as a release of each of said tracts from said lien, except the amount so apportioned against it and thereafter the amount apportioned to each of such respective tracts shall be entered separately against such tract upon the tax list and so reported to the treasurer for collection and not reduction or abatement of the amount so apportioned shall be thereafter made.

**Sec. 8. County ditch inspector and proceedings by county board.**—That section 5552-A as contained in section 14 of chapter 441 of the General Laws of 1917, be and the same is hereby amended so as to read as follows:

5552-A. That in all counties where drainage ditches costing in the aggregate not less than \$50,000.00, have been or hereafter shall be constructed under the provisions of the laws of the state of Minnesota, by the district court or county board, there shall be appointed by the county board, a competent man who shall be known as county ditch inspector, whose duty it shall be to travel over the line of all such county and judicial ditches in said county at least twice in each season and inspect the same, observe their operations and what repairs thereto or improvements may be neces-

sary or proper, and immediately after such inspection he shall make a full report in writing to the county board of his work, together with the estimate of the cost thereof. He shall also include in such report an itemized statement of the time spent upon each ditch and of his expenses incurred in connection therewith.

*At the first meeting of the board following the filing of said report with the county auditor, said county board shall proceed as provided in section 5552 of the General Statutes of 1913.*

The salary of such county ditch inspector shall be fixed by the county board and shall be paid out of the general revenue funds of the county which shall be reimbursed as provided for in section 5552 by assessment upon all lands originally assessed for benefits by reason of the construction of the ditches inspected by him.

Sec. 9. **Tile drainage system.**—That 5552-B, as contained in section 15 of chapter 441 of the General Laws of 1917, be and the same is hereby amended so as to read as follows:

5552-B. Whenever *two* or more parties owning land adjoining or in the vicinity of any public ditch, drain or natural outlet, or in the vicinity of any body of water forming a part of or connected with any such ditch, drain or outlet, shall petition the county board of the county wherein said land is located for the establishment of a tile drainage system draining the land described in such petition and connecting the same with said ditch, drain, outlet or body of water and shall in said petition describe the land, if any, that it may be necessary to cross to connect the land of petitioner with said ditch drain outlet or body of water, giving a description in general terms of the tile drainage system petitioned for and shall therein set forth that said proposed system will benefit the public health, and general welfare of that vicinity and that the benefits that will be derived therefrom will exceed the cost of construction of said system, including damages, and shall in said petition fully authorize and empower the county board of said county named in said petition to perform all things necessary to establish and construct such tile drainage system and to exercise in so doing all the authority by this act or any other law of this state granted to the board of county commissioners in the establishment of county ditches or county drainage improvements and authorize such county board to order established and constructed said tile drainage system as finally determined upon by them and to levy and assess the cost thereof including the expenses in connection therewith against the property drained and benefited in proportion to the benefits received and shall file said petition in the office of the county auditor of such county, together with a bond in a sum of not less than one thousand (\$1,000) dollars with sufficient sureties to be approved by the county auditor conditioned to hold the county harmless from any cost in connection with said proceeding; that thereupon the said county board shall have jurisdiction of all persons and property named, described and referred to in said petition.

*At the first meeting of the said county board after the filing of said petition the said county board shall by order appoint an engineer and direct him to make complete survey of the tile drainage system petitioned for and make his report thereon to the court at the earliest possible date, and the provisions of sections 5526 and 5527, General Statutes of 1913, shall so far as applicable apply to the duties and work of such engineer except in all cases under this act, the engineer shall not be required in his report to designate the size of the ditch or the cubic yards to be removed, but shall give the total area to be drained on each tract of land; the size of the main tile and laterals; the depth of the tile and the length of the main tile and of each lateral, and shall attach to his report a profile showing the surface of the ground and the depth of all tile to be laid in connection with said system, and a complete plat of said system located with reference to government corners or known and established land marks, and shall as a part of his report include an estimate of the cost of the main tile and of the several branches, including the cost of construction and all expenses connected therewith and upon the coming in of the engineer's report and the filing thereof with the county auditor the board of county commissioners shall appoint three viewers to examine the land described in the petition and the engineer's report, and shall within ten days after appointment proceed to make an examination of said land and make a detailed report to the county board within thirty (30) days from the date thereof.*

*The provisions of sections 5526 to 5548, inclusive, of the General Statutes of Minnesota for the year 1913, and as they may have been amended shall, so far as they may be applicable, govern and control all proceedings thereafter to be had under the provisions of this act and shall govern and control the action of all officers, parties and person therein named and all such officials in the performance of their respective duties under the provisions of this act, and all parties and persons interested in proceedings hereunder shall have and exercise all rights, powers, privileges and authority conferred by said sections and shall do and perform all acts and things required therein, provided, that in event the land described in the petition from the engineer's report or some part thereof, has not been assessed for the construction of the main ditch or drain into which said tile drainage system shall empty, then said system shall be connected with said ditch or drain only upon condition that all lands not assessed shall be assessed as provided by law in the case of construction of laterals to main ditches and said lateral or tile system when connected shall be and form a part of the general system to which it is attached for all future purposes.*

Sec. 10. Plat of tiled drains.—Amend chapter 44 of the General Statutes of 1913, as amended by chapter 441 of the General

Laws of 1917, by adding thereto after section 5552-B a new section to be known as 5552-C to read as follows:

Sec. 5552-C. That in all cases where tile drain is required to be or is being laid as a part of the plan or system of any public ditch or drain or drainage project under any drainage law of this state, or in case of any drain being constructed by a private party, it shall be the duty of the engineer in charge of such drainage project to make at the request of the owner of any land connected with such system and as a part of his duties as such engineer, a complete plat of all tile drain used as a part of such system or any tract or piece of land connected therewith or affected by said drainage tile system, showing thereon the complete location and outlet of such tile and size and kind thereof, course and distance of each line, and the description of the land upon which the same is located and so connect the same with the main ditch and outlet and the adjoining bench marks and government corners that the said tile system or any part thereof may readily be relocated at any subsequent period from such plat.

The expense of furnishing such plat shall be paid for by the party requesting the same, who may file said plat in the office of the register of deeds of the county or counties in which said tile drain is located. The engineer and register of deeds shall be entitled to and receive the same compensation as for other like services in ditch proceedings, and the said register of deeds shall preserve said plat and make notation thereof in his index and reception book so that the same may be preserved for future reference.

Sec. 11. Fees and expenses.—That section 5571 of the General Statutes of Minnesota for 1913 as amended by section 16, chapter 441 of the General Laws of Minnesota for the year 1917, be and the same is hereby amended so as to read as follows:

5571. The following fees and expenses shall be allowed and paid for services rendered under this act. To engineers a sum not exceeding the sum of \$12.50 per day, to be fixed by the judge or the county board making the appointment, for every day necessarily engaged and actual and necessary expenses, including cost of bond. To each viewer the sum of \$5.00 per day for every day necessarily engaged in viewing ditches and traveling therefor and making up the reports and actual and necessary expenses. To each rodman a sum of not exceeding \$4.00 per day and actual and necessary expenses. To each chainman, axeman and other like employes not herein mentioned and necessary to the prompt execution of the work of locating or constructing a public ditch, a sum of not exceeding \$4.00 and actual and necessary expenses. To each member of the county board the sum of \$5.00 per day for each day actually occupied in proceedings to establish or repair or inspect any ditch after its completion or during the course of

the work if appointed as a committee for that purpose and the sum of 10 cents per mile each way for travel necessary in attending any special meeting of the county board called for the purpose of transacting any business pertaining to such ditch and for travel in inspecting ditches or any other necessary travel in said ditch matter. To the county auditor, county attorney, attorney for petitioners, clerk of the district court, the register of deeds, the sheriff and other officials performing duties thereunder, such reasonable compensation as shall be fixed by the county board or court as the case may be, and the fees and compensation of all such county officials and other officers in ditch proceedings shall be in addition to all sum and fees allowed them by law, provided that the fees of such auditor shall in no case be less than \$20.00 nor more than \$250.00. In all proceedings where any county is directly interested the county attorney thereof shall represent the county unless otherwise provided by the county board. No county attorney or his assistants or any attorney associated with him in business shall otherwise appear in any drainage proceeding for any person or party whatsoever interested therein.

All fees per diem, compensation and expenses provided for in this act and fees for such other legal services and expenses as may be necessary, shall, *in the case of a county ditch, be audited, allowed and paid upon the order of the county board and in case of a judicial ditch the judge of the district court having charge thereof shall audit, allow and order the same paid upon ten days' written notice to the county or counties interested, which notice may be given to the county auditor of the interested county or counties, that all bills on file with the clerk of court where such proceeding is pending at the date of such notice, will be brought on for hearing and for allowance at the time and place named therein.*

*And in all cases where a judicial ditch proceeding has, for any reason, been dismissed by the court, all fees and expenses connected therewith shall be audited, allowed and ordered paid in like manner.*

The said judge or county board, as the case may be, may appoint a referee who shall be a consulting engineer in any ditch proceedings to perform the duties hereinafter set forth and such referee shall qualify by taking the appropriate oath and giving bond to the county or counties affected by such ditch in such sum as shall be fixed by such judge or board, as the case may be. Said bond shall be conditioned for the faithful performance of his duties as referee. Said referee shall be a qualified civil engineer. The fees of such referee shall be fixed by said judge or board, as the case may be, and shall be paid out of funds of such ditch as shall be ordered by said judge or board. It shall be the duty of such referee, if appointed, to consider all bills of account or applications for payment in such ditch proceedings and to hear evidence if offered in relation thereto and to report in writing to such judge or county

board his approval, rejection or amendment thereof as such referee who shall also keep accurate record and account of all bills of account and all applications for payment acted upon by him and reported to said judge or county board, together with copies of all such reports and all proceedings had in relation thereto. It shall further be the duty of said referee by order of said judge or board to inspect and examine and make report upon all work of construction in the matter of such ditch prior to final acceptance thereof and for the purpose of making such examination or inspection and upon application of such referee the said judge or board may appoint and designate a competent and experienced civil engineer, other than the one officially acting as such in such ditch proceedings, to examine such ditch and the plans and specifications thereof and report thereon to said referee and it shall be the duty of such referee and if requested by such referee of said engineer to appear and testify before the judge or county board considering the final acceptance of such ditch. When order of said judge or county board approving a report of such referee and allowing a bill of account or application for payment in such ditch proceedings shall constitute and be construed as an accounting and allowing of such account by such judge or county board within the meaning of this section and the approval by said judge or county board of any order of said referee shall constitute the said report of said referee, the order of said judge or county board (in such proceeding, provided in all cases and said judge or county board) may reject such report and make an independent order in relation thereto covered by or contained in such report. Such referee shall be subject to removal at the pleasure of said judge or county board.

*Any land owner, employe or other person aggrieved by any order of court or county board relative to the allowance of fees or fees and expenses may appeal from such order to the district court of any county in which the proceeding is pending and by notice given on or before the first day of the term, demand and obtain a jury trial. All such appeals shall be within thirty (30) days after the order allowing such claim and shall be governed as far as applicable by the provisions of section 5534 of the General Statutes of Minnesota for 1913, save that in all appeals taken by parties whose lands are assessed for said improvements, then the expenses thereof shall be paid by the county and assessed against said improvement.*

**Sec. 12. Side lateral and spur ditches.**—That section 5597 of the General Statutes of Minnesota for the year 1913, be and the same hereby is amended so as to read as follows:

**5597.** After the completion of any ditch constructed under any law of this state, excepting state or town ditches, no public or private, or side lateral or spur ditch or ditches draining lands or property not assessed for benefits in such main ditch proceeding

shall be so dug or constructed by any person or persons or any association of persons or by any corporation or any township or other municipal corporation or the authorities of either of them without having first secured express authority so to do from the county board of the county where such principal ditch is located, *in case of a county ditch* or in case of a *judicial ditch the district court that originally ordered the construction of said ditch.*

Such proceedings shall be instituted by a petition to the county board filed with such county auditor *in case of a county ditch and to the district court and filed with the clerk of said court in case of a judicial ditch,* and signed by parties interested in and affected by said proposed branch, setting forth the source, course, terminus and the size and dimensions of said proposed side lateral or spur ditch.

Thereupon the said auditor *in case of a county ditch* or the clerk of the district court by direction of the judge in case of a *judicial ditch* shall appoint a time and place to consider the same and said auditor shall call a special meeting of the county board *in case of a county ditch,* to meet at such time and place for that purpose *and in either case* shall cause notice thereof to be published once each week for two successive weeks in a newspaper published in the county or counties affected, *and in case of a judicial ditch notice shall be served upon the county auditor of each county affected at least ten (10) days before the date for such hearing.*

The said county board or *district court* as the case may be, may employ a competent and experienced civil engineer to investigate and report on the matter *contained in said petition.*

On the day of hearing so appointed, or at any adjourned day thereof, the county board or *district court as the case may be,* shall proceed to hear all testimony offered in relation to said matter, and shall determine and decide the same, and if the county board or *district court* decide to permit such branch or lateral ditch to be built, or such other ditch to empty therein, determine and decide the terms and conditions under which same may be built, and the amount to be paid by petitioners therefor, if any, and upon compliance therewith and not otherwise, said petitioner or petitioners may proceed to construct and complete said private ditch or side lateral or spur ditch so petitioned for.

Sec. 13. Sewerage system to connect with ditches.—That there be added to Chapter 44 of the General Statutes of Minnesota for 1913, six new sections to be known as sections 5597-A, 5597-B, 5597-C, 5597-D, and 5597-E, and 5597-F, as follows:

5597-A. The appropriate county board in the case of a county ditch and the appropriate district court in the case of a judicial ditch upon such terms as such board or court may deem proper may permit any municipality having a population of two thousand five hundred (2,500) or less to drain into any drainage ditch now



or hereafter to be constructed, the overflow from any properly constructed and operated sewage treatment plant subject to the following conditions:

(1) Such overflow shall empty into the drainage ditch at a point below the limits of the municipality or below the settled portion thereof and where the waters from the ditch may not flow back and flood the sewerage plant.

(2) Storm waters from the municipality shall not be permitted to enter or run through the sewage plant. Provided, however, that in all cases where sewerage systems now exist or are in process of construction in which the storm waters have access to the sewage plant, such systems may nevertheless continue in operation where they have been approved by the state board of health, and where they shall from time to time be modified and corrected in such manner as may be specified by the state board of health.

(3) No such overflow into any drainage ditch shall be permitted unless the same has first been rendered sanitary and inoffensive.

(4) The municipality shall pay for such outlet to the appropriate district such amount as the board or court shall direct.

5597-B. In case the drainage ditch has been petitioned for but not yet established, any municipality desiring to take advantage of the provisions of this act shall present to the county board or district court, as the case may be, a petition signed by the governing body of the municipality, asking that such municipality be made a party to such drainage proceedings, and that the municipal sewer system then in operation or thereafter to be constructed may be connected with such drainage ditch, and that sewage therefrom being first passed through a proper treatment plant and rendered sanitary and inoffensive may be discharged into such drainage ditch.

5597-C. The petition provided for in the preceding section shall be accompanied by plans and specifications which shall show in detail the existing or proposed sewer systems so to be connected, the method of treatment of the sewage to be discharged into such drainage ditch and such plans and specifications which shall contain the endorsement of the state board of health to the effect that the method of reduction and treatment of such sewage and the plans which connect such sewer system with such drainage ditch have been examined and found to be practicable and sanitary. The county board or court, as the case may be, shall thereupon appoint a time and place for the hearing of said petition and shall give such notice thereof to the appropriate clerk of court or county auditor, as the case may be, and to all persons whose lands are assessed for the construction of said ditch as the board or court may prescribe. At the time and place so appointed the board or court shall proceed to hear and determine said petition, and may take such evidence as it deems proper, and if it is satisfied that

such connection can be made advantageously and without endangering the public health, an order shall be made making such municipality a party to said drainage proceedings, determining the amount which such municipality shall pay to such drainage district for the privilege of casting the overflow from its sewage system into said drainage ditch and determining the time when such payment shall be made, and directing further that when such conditions are complied with that connection with such drainage district may be made, and provide such further conditions as it may deem proper to protect the rights of the parties in interest and the general public.

5597-D. In case said drainage ditch has already been established, a like petition shall be made to the county board or court, as the case may be, by the governing body of such municipality, whereupon said board or court shall fix a time and place for hearing the same and cause such notice thereof to be given as the court or board may prescribe to the county or clerk of court, as the case may be, and to all parties whose lands are assessed for the construction of said drainage ditch. At the time and place of hearing so fixed the court or board shall proceed to hear and determine said petition in the same manner provided for in the preceding section, and after said hearing the court or board, as the case may be, may, if it deems proper, order that said connection be made and fix the amount which said municipality shall pay, and the time within which it shall pay the same to the drainage district affected, and provide such further conditions as it may deem proper to protect the rights and interests of the public and all the parties whose land have been assessed for the construction of said ditch.

5597-E. Any municipality interested in any project hereinbefore specified may acquire by purchase or condemnation the necessary right of way over any lands within or without such municipality for the construction of such sewage plant and overflow drain and proceedings to condemn such land may be made and instituted by such municipality and prosecuted to final judgment under the statutes of this state in respect to the taking of property by right of eminent domain, and all of the general laws of this state in respect to the condemnation of property shall apply thereto and govern and control such proceedings. The cost of the condemnation and acquisition of such right of way as well as the amount required to be paid for the right to make such connection and all other expenses incurred by such municipality in the establishment and construction of such overflow drain shall be paid from the general fund of such municipality. In case of the denial by the court or board, as the case may be, of any petition in this act provided for, the municipality in whose behalf the same was

made, shall pay the costs of the proceedings to be taxed in the usual way.

5597-F. In all cases pending before the county board any interested party feeling aggrieved by any order made by such board either granting or denying any such petition may appeal from any such order to the district court of the county in which said proceedings are pending. The proceedings on such appeal shall be the same as those provided in section 5534, as amended, of the Revised Statutes of Minnesota for the year 1913.

Sec. 14. Petition to be filed.—That section 5635 of the General Statutes of Minnesota for the year 1913, be and the same is hereby amended so as to read as follows:

5635. Before any ditch shall be established under this act there shall be filed with the town clerk of any town in which any part of said ditch is proposed to be located, a petition therefor signed by one or more *persons or corporations* owning lands which will probably be benefited by the construction of said ditch or by the chief executive officer of any city or village whose streets will probably be benefited by the construction of said ditch or by the town board of supervisors of any town whose highways will probably be benefited by the construction of said ditch, setting forth the necessity thereof, and that it will be of public benefit or promote the public health, with description of the proposed starting points, routes and termini and of the general character, size and depth of said ditch. Said petition shall also contain a legal description of all lands through which said proposed ditch shall run, or to be drained, as near as can be ascertained and shall also contain a description of all public roads and streets likely to be benefited thereby, as nearly as can be ascertained. The town board of any town shall have the same power of condemnation for the purpose of town drainage projects as are possessed by county boards in county ditch proceedings. In such petition the petitioners may, at their option, ask the appointment of an engineer to perform the duties hereinafter in this act specified, and may also at their option ask the appointment of an attorney at law to perform the duties hereinafter in this act specified. *Also they may ask for the appointment of three resident freeholders of the town not interested in the construction of the proposed work, and not of kin to any of the parties known to be interested therein, as viewers to meet at a time and place fixed by the board.* Such petition may include any side, lateral, spur or branch ditches necessary to secure the object of the improvement and may ask for the different parts of the ditch to flow in different directions with more than one outlet. Provided, that no meandered lake adjoining an incorporated village, or within four miles of any city of the fourth class, or upon which any incorporated village is a riparian owner, shall be drained or lowered under the provisions of this act unless by the approval of

a majority vote of the legal voters of such village or city at any annual or special election held for that purpose.

*Provided further, however, that in case any such lake has no natural outlet and in times of highwater the runoff from adjacent lands fills up the bed of the lake so as to damage adjacent lands, then in such case it shall be legal, without the vote of such cities of the fourth class, to lower the surface of such lake by drainage until it shall reach the normal stage.*

Such special election, if any, held for such purpose, shall be called in the way and manner provided by law for calling special election.

**Sec. 14½. Proceedings.**—That section 5636 of the General Statutes of 1913 as amended by section 1, chapter 380, Laws of 1917, be and the same is hereby amended so as to read as follows:

5636. Upon the filing of the petition such proceedings shall be designated and numbered by the town clerk as "Town Ditch No..... of Town of.....," and may be so referred to in all subsequent proceedings regardless of whether or not said ditch is in fact in more than one town.

**Sec. 15. Errors.**—Amend chapter 44 of the General Statutes of Minnesota of 1913, as amended by chapter 441 of the General Laws of 1917, by adding thereto a new section to be known as section 5672-B, to read as follows:

Sec. 5672-B. Whenever in any county or judicial ditch proceedings conducted under chapter 230, Laws of 1905, and acts amendatory thereof and supplementary thereto, it shall appear that said ditch has been regularly established and the contract let and tabular statement made and filed and the bonds issued and sold as provided in said chapter, and said contract wholly completed, and that by reason of an error on the part of the engineer in computing the yardage or other work pertaining to said ditch, or by reason of unforeseen obstacles having arisen after the letting of the contract thereby increasing the total cost of said ditch; or where for any other reason it shall appear when said ditch is completed, that the total amount of the tabular statement filed and the amount of bonds issued is less than the total cost of said ditch and that the total amount of benefits as returned by the viewers and shown by the records in said proceedings exceeds the amount of the tabular statement filed and bonds issued and such facts are made to appear to the county board by report of the county auditor or otherwise, the county board is hereby authorized by resolution made and entered, to direct the county auditor to issue notice to the parties interested in said ditch proceedings and serve the same by publication at least two weeks and by mailing notice to the last known address of all parties interested as shown by the records in said proceedings, requiring all such parties to show cause before said county board why an order should not be made directing the county

auditor to file another tabular statement assessing against the property affected by said proceedings in the same proportion as the original assessment, the total cost of said ditch in excess of the total amount of the tabular statement previously filed, not to exceed, however, the total amount of benefits as shown by the viewers' report and upon said hearing said county board is hereby authorized to cause to be made and entered an order directing the county auditor to make and file an additional tabular statement in form as provided in section 6543, General Statutes 1913, covering the deficiency between the amount of the previous tabular statement filed and the total cost of said ditch and assess the same against the lands benefited in the same proportion as the original summary statement filed and the said county board is further hereby authorized, when the amount so levied shall exceed the sum of five thousand (\$5,000) dollars, to issue and sell bonds of said county as provided in section 5542, General Statutes 1913, to include the whole or such portion of the amount as they may direct, covered by said additional tabular statement so filed; and the said tabular statement so filed as herein provided, shall constitute a first lien against the property as provided in section 5543, General Statutes 1913, except only as to previous statement filed; and it shall be the duty of the said county auditor to cause said statement to be recorded as provided in section 5544, General Statutes 1913; and the provisions of sections 5546, 5547, 5548, General Statutes 1913, shall apply to and govern the acts and duties of the several officials in the collection of the assessment so levied. Provided, however, that this section shall not apply in any case where the matter in issue has already been determined by the court.

**Sec. 16. Public examiner to adjust drainage accounts.**—That chapter 44 of the General Statutes of Minnesota for the year 1913, relating to drainage, be amended by adding thereto another section to be known as section 5542-A, directing the public examiner to adjust the drainage fund accounts in various counties and providing for the payment of the expense thereof.

**5542-A.** Upon application of any county in the state, indicated by resolution of the board of county commissioners entered in its minutes, it shall be the duty of the public examiner, in addition to his other duties, to examine into the accounts and records controlling the drainage projects of the county and establish a system of accounts with each drainage system in the county as required by section 4, chapter 300, Laws 1915.

The expense of the examination and establishment of the accounting system provided for in the preceding section, including the payment of compensation to the examining accountant at not more than eight dollars per day and traveling and hotel expenses,

as certified by the public examiner, shall be audited and allowed by the board and paid into the state treasury and credited to the public examiner's contingent fund.

Approved April 25, 1919.

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CHAPTER 472—H. F. No. 280.

*An act relating to the organization and equipment of an additional battalion of infantry for the Minnesota National Guard.*

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

Section 1. **Separate battalion of infantry.**—In addition to the units of the national guard now authorized by law, there may be organized, armed and equipped within four months after the passage of this act, in the same manner in which the existing units have been organized, armed and equipped, a separate battalion of infantry, or any other branch of the military service as occasion may arise, to be composed of the present 16th battalion M. H. G. and such other persons as are required, possessing the qualifications of members of the state militia. The armory boards of each city wherein one or more companies of said battalion shall be located shall provide quarters, and suitable floor space for drills and ceremonies, for such companies.

Sec. 2. **Inconsistent acts repealed.**—All acts or parts of acts inconsistent with the provisions of this act are herewith repealed.

Sec. 3. This act shall take effect and be in force four months after its passage.

Approved April 25, 1919.

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CHAPTER 473—H. F. No. 353.

*An act to amend Section 1011, General Statutes 1913, relating to certain school expenses and the payment of the same by the county board.*

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

Section 1. **Expenses to be allowed by county board.**—That section 1011 of the General Statutes of Minnesota 1913, be and is hereby amended so as to read as follows:

Section 1011. The county board of each county shall pay itemized and verified bills for postage used in official correspondence and in forwarding official documents, express, telegraph and telephone charges in official business, necessary bills for printing notices, circulars, lists, of questions, annual reports required in the proper grading of schools, and necessary and proper expenditures in connection