

CHAPTER 503—H. F. No. 1161.

An act providing for the payment of delinquent taxes against freight line companies.

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

Section 1. **Payment of delinquent taxes by freight line companies.**—If payment is made prior to August first, 1919, the state treasurer is hereby authorized to receive in full payment of gross earnings taxes due from so-called freight line companies for the year 1917 and prior years, the original amount of such taxes, together with interest thereon at the rate of six per cent per annum from the date when the same became delinquent. Accrued penalties and interest in excess of said original tax and interest is hereby abated, providing payment is made prior to the above date.

Approved April 25, 1919.

CHAPTER 504—H. F. No. 1168.

An act amending Sections two (2) and five (5) and six (6) of Chapter 194, Laws 1903, being an act to enable municipalities to establish and acquire building line easements along streets, highways, parks and parkways, and defining the nature of such easements.

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

Section 1. **Acquiring of easements along streets.**—That section 2 of said chapter 194, Laws 1903, be and the same is hereby amended to read as follows, to-wit:

Section 2. Such easement may be acquired by the city council by purchase, or by grant, or by condemnation. It may also be created by dedication by indicating such building line upon any plat hereafter recorded in the office of the register of deeds of the county where the land lies; and city council shall have power to refuse to accept or approve plats of lands unless building lines are shown thereon.

Sec. 2. **Plat to be furnished by city engineer.**—That the first subdivision of section 5 of chapter 194, Laws of 1903, be, and the same hereby is amended to read as follows, to-wit:

Section 5. First; *It shall be the duty of the city engineer or engineer of the board of park commissioners as the case may be, to make and present to the governing body a plat showing the location, course and extent of the easement proposed to be acquired, and the lands and property necessary to be taken or damaged thereby, with the name of the owner of each parcel of such property so far as the engineer can readily ascertain the same. When such plat shall have been adopted by the governing body it shall be filed with the clerk or secretary of the governing body, and shall be held to show correctly the location, course and extent of the easement*

agreed upon and ordered to be acquired by the governing body. Said plat shall also show the land or part thereof contiguous to the lands upon which the building line easement is to be acquired.

The governing body shall then, or afterwards appoint five free-holders of said city, no two of whom shall reside in the same ward, as appraisers to view the premises and to ascertain and award the amount of damages and compensation to be paid to the owners of property which is to be taken or injured by the acquisition of such building line easement, and to assess the amount of such damages and compensation and the cost and expense of the proceedings upon the lands and property to be benefited by such improvement, and in proportion to the benefits to be received by each parcel and without regard to a cash valuation. Three or more commissioners shall constitute a quorum and be competent to perform any duty required of such commissioners. Said appraisers shall be notified as soon as practicable by the secretary of the board or the city clerk as the case may be, to attend at a time fixed by him for the purpose of qualifying and entering upon their duties. Whenever a vacancy may occur among said appraisers by neglect or refusal of any of them to act, or otherwise, such vacancy shall be filled by the governing body.

Sec. 3. Notice of publication and viewing of premises.—That the third subdivision of section 5 of said chapter be, and the same hereby is amended to read as follows, to-wit:

Third. The appraisers shall give notice by publication in the official-newspaper of the city for two consecutive days, which first publication shall be at least ten days before the day of such meeting, which notice shall contain a general description of the lands designated by the governing body, and give notice that a plat of the same has been filed in the office of the city clerk or secretary as the case may be, and that said appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises, and appraise the damages for property to be taken, or which may be damaged by such improvement, and to view the premises to be benefited by such improvement and assess thereon in proportion to benefits the amount necessary to pay such damages and the cost and expense of the proceedings, in the manner hereinafter specified; and that they will then hear such evidence and proofs as interested persons may offer, adjourning from time to time for that purpose.

Sec. 4. Service upon owner.—That the fourth subdivision of section 5 of said chapter be, and the same hereby is amended to read as follows, to-wit:

Fourth. The secretary or city clerk, as the case may be, shall, after the first publication of such notice and at least six days (Sundays excluded) prior to the meeting specified in said notice, serve upon each person, in whose name each tract or parcel of said

land upon which such easement is to be acquired is then assessed, a copy of said notice by depositing the same in the postoffice of said city with postage prepaid, directed to such person at his place of residence, if known to the secretary, or city clerk, *as the case may be*, but if not known, then to his place of residence as given in the last published city directory of said city, if his name appears therein.

A copy of all subsequent notices relating to said proceedings, which are required to be published, shall be mailed by said clerk or secretary in the manner above specified after the first publication thereof, to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them. *Any failure of the secretary or city clerk to mail any notice as required by this act, or failure of the owner or any person to receive any such notice, shall not invalidate any proceedings hereunder.*

○ Sec. 5. **Work of appraisers.**—That subdivision fifth of section 5 of said chapter be, and the same is amended to read as follows, to-wit:

Fifth. At the time and place mentioned in the notice, the said appraisers shall meet and thence proceed to view the premises, and may hear any evidence or proof offered by the parties interested, and may adjourn from time to time for the purposes aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land of which that taken is a part. They shall also determine the amount of benefits, if any, to each piece or parcel of land of which that taken is a part, *and assess the amount of such damages so awarded upon the land and property benefited by such proposed improvement, together with the expenses and cost of the proceedings, and in proportion to such benefits.* If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, *the difference shall be assessed as benefits; but the total assessment for benefits shall not be greater than the aggregate net award of damages, and the cost of the proceedings;* and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual benefits after deducting the damages, if any.

Sec. 6. **Appeal by aggrieved party.**—That subdivision thirteenth of said section 5 of said chapter be, and the same hereby is amended to read as follows, to-wit:

Thirteenth. Any person whose property is proposed to be taken or interfered with or assessed under any provision of this chapter, and who deems that there is any irregularity in the proceedings of said governing body, or action of the appraisers, by reasons of which the award of the appraisers ought not to be confirmed, or

who is dissatisfied with the amount of damages awarded to him for the taking of, or interference with his property, or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the governing body, file with the secretary of the board or the city clerk, as the case may be, in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and *containing* a description of the property in which he is interested, *or which is* affected by such proceedings and his interest therein, and if, notwithstanding such objections the said governing body shall confirm the award, or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the governing body to the district court of the county where such land is situated, within ten days after such order. Such appeal shall be made by serving a written notice of appeal upon the secretary of the board, or the city clerk, as the case may be, which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, *and by also delivering to said city clerk or secretary, as the case may be, a bond in the sum of \$50.00 executed by the appellant or by some one on his behalf with two sureties, who shall each justify in the penal sum of fifty dollars, conditioned to pay all costs that may be awarded against the appellant.* Thereupon said secretary or city clerk, at the expense of the appellant, shall make out and transmit to the clerk of the district court a copy of the record of the entire proceedings, and of the award of the appraisers as confirmed by the governing body and of the order of the governing body confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by said secretary of city clerk to be true copies, within ten days after the taking of such appeal. But if more than one appeal be taken from any award, it shall not be necessary that the secretary or city clerk, in appeals subsequent to the first, shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether said appraisers had jurisdiction to take action in the premises.

Sec. 7. Hearing by court and award.—That subdivision fourteenth of said section 5 of said chapter be, and the same is hereby amended to read as follows, to-wit:

Fourteenth. The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the said proceedings affect the property of the appellant proposed to be taken or damaged or assessed, and described in said written objection. *From such determination no appeal or*

writ of error shall lie. In case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, *upon such confirmation*, appoint three disinterested freeholders, residents of said city, appraisers, to reappraise said damages, and reassess benefits as to the property of appellant. The parties to such appeal shall be heard by said court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers, they shall be sworn to the faithful discharge of their duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits; such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages or benefits and in all other material respects as are in this chapter made for the government of appraisers appointed by said governing body. They shall, after the hearing and view of the premises, make a report to said court of their award of damages and assessment of benefits in respect to the property of such appellant. The appellant shall within five days of the notice of filing the award file his written election to remove the building if he so elect. Such election shall not affect his right to a review. The award shall be final unless set aside by the court *for good cause shown*. The motion to set aside shall be made within fifteen days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers, as it shall deem best; said court shall allow to said appraisers a reasonable compensation for their services, and make such award of costs on such appeal, including the compensation of such appraisers as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in said proceedings.

Sec. 8. Completion and condemnation proceedings.—That section 6 of said chapter 194 be, and the same is hereby amended to read as follows, to-wit:

Section 6. As soon as such condemnation proceedings have been completed, it shall be the duty of such governing body to cause plats of such improvement to be made, *which shall be copies of the original plat on file*, with a list of the parcels of land taken and the amount paid on account of each parcel, and to file one of such *plats* and list duly certified by the president of the governing body and the clerk or secretary, as the case may be, in each of the following offices, to-wit: The office of the city engineer, the office of the register of deeds of the county, and the office of the city

clerk or secretary of the park board, as the case may be; and the same shall be prima facie evidence of the full and complete condemnation and appropriation of such easement for the public use. As soon as the assessments are confirmed, the secretary of the board of park commissioners or the city clerk, or the clerk of the district court, as the case may be, shall transmit a copy thereof duly certified, to the county auditor of the county in which the lands lie. The county auditor shall include the same in the next general tax list for the collection of state, county and city taxes, against the several tracts or parcels of land, and said assessments shall be collected with and as a part of, and shall be subject to the same penalties, costs and interest, as the general taxes. Such assessments shall be set down in the tax books in an appropriate column to be headed, "Building Line Assessments," and when collected a separate account thereof shall be kept by the county auditor, and the same shall be transmitted to the treasurer of the city, and placed to the credit of the proper fund.

Sec. 9. This act shall take effect and be in force from and after its passage.

Approved April 25, 1919.

CHAPTER 505—H. F. No. 1176.

An act to amend Section 2270, General Statutes 1913, providing for taxation of vessels navigating international waters.

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

Section 1. Distribution of tonnage tax.—That section 2270, General Statutes 1913, is hereby amended to read as follows:

2270. The owner of any steam vessel, barge, boat, or other water craft, owned within or hailing from any port of this state, and employed in the navigation of international waters, annually on or before July 1, may file with the state auditor a verified statement containing the name, name of owner, port of hail, and registered tonnage of such craft, and thereupon may pay into the state treasury a sum equal to *five* cents per net ton of such registered tonnage, and the treasurer shall issue his receipt therefor. Such payment shall be received in lieu of other taxes on such craft, state or municipal, for the year in which such payment is made. On or before December 1 following, such treasurer shall pay one-half of such sum to the treasurer of the county wherein the port of hail of such craft is located.

Approved April 25, 1919.