

the receiver to adjust by arbitration or compromise any demand in favor of or against the estate of such absentee.

Sec. 12. Compensation of receiver.—The receiver shall be allowed such compensation and disbursements as the court orders, to be paid out of said property or proceeds. If within ten years after the date of the disappearance and absconding as found and recorded by the court, such absentee appears, or an administrator, executor, assignee in insolvency or trustee in bankruptcy of said absentee is appointed, such receiver shall account for, deliver and pay over to him the remainder of said property. If said absentee does not appear and claim said property within said ten years, all his right, title and interest in said property, real or personal, or the proceeds thereof shall cease, and no action shall be brought by him on account thereof.

Sec. 13. Balance to be distributed after ten years.—If at the expiration of said ten years said property has not been accounted for, delivered or paid over under the preceding section, the court shall order the distribution of the remainder to the persons to whom, and in the shares and proportions in which, it would have been distributed if said absentee had died intestate within the state on the day ten years after the date of the disappearance or absconding as found and recorded by the court.

If such receiver is not appointed within nine years after the date found by the court under Section five, the time limited for accounting for, or fixed for distributing, said property or its proceeds, or for barring actions relative thereto, shall be one year after the date of the appointment of the receiver instead of the ten years provided in the two preceding sections.

The provisions of this act shall not be construed as exclusive, but as providing additional and cumulative remedies.

Approved April 18, 1925.

CHAPTER 263—H. F. No. 712.

An act authorizing counties, towns, cities and villages to contract debts and pledge their public credit for works and improvements tending to prevent or abate forest fires; including in certain cases the compulsory clearing and development of wild lands and the assessment against such lands of benefits so conferred and the payment of damages so sustained.

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

Section 1. Divisions into parts.—This act is divided into three parts. Part I relates exclusively to counties. Part II relates exclusively to towns, cities and villages. Part III contains provisions relating both to counties and to towns, cities and villages.

PART I.

Sec. 2. Purposes of act.—It is hereby declared to be the purpose of this act to grant to the county boards of the several counties of this state, jurisdiction within their respective counties to exercise all the powers and authority by this act contemplated relative to the prevention and abatement of forest fires and the clearing and improvement of land by the removal from such land of trees, brush, stumps and all other similar substances which contribute to the danger of forest fires; including the power to make any given area of improvement under this act impervious to fire by any means now known or hereafter invented or discovered.

Sec. 3. Petition to be filed—bond.—Before any improvement authorized by this act shall be ordered or caused to be constructed by the county board of any county, there shall first be filed with the county auditor of such county a petition signed by two or more parties owning land in said county, which land shall be described in said petition. Said petition shall describe each tract of land of which any portion is to be improved by 40-acre tracts or by number of lots as designated under government survey; and shall specify the number of acres of each tract that it is proposed to improve, which shall be not less than five nor more than twenty acres in each 40-acre tract and a proportionate amount in smaller subdivisions; and said petition shall further set forth the nature of the title of the petitioners to each particular tract in general terms, specifying whether said land is held by the petitioners as owners or under contract, and if the latter, with whom, and the balance remaining unpaid of the purchase price. Said lands described in said petition must be situated in the same locality or part of the county, but not more than 40 acres in any quarter section owned by the same petitioner shall be improved under the provisions of this act except by unanimous consent of all the members of the county board. Said petition shall further set forth a general description of the proposed improvement. Upon the filing of said petition duly verified with the county auditor of said county, together with a bond by said petitioners or by one or more of them, or someone in their behalf, with sufficient security in a sum of not less than \$500 conditioned to hold the county harmless from all expense in the event the improvement petitioned for is not granted, the county auditor shall designate such proceeding as "County Land Improvement No. ————," and in all subsequent proceedings in relation thereto the same may be designated and referred to by such title and number.

Any petition heretofore filed under Chapter 155, Session Laws 1921, and any proceedings taken thereunder may be continued and completed in conformity with the provisions of this act, at the discretion of the county board. No lands shall be improved under this act except upon petition of the owner or owners thereof.

Sec. 4. Surveys and plats to be made.—Upon the filing of the petition and bond as provided in Section 3 of this act with the county auditor of any county, said county auditor shall notify the county board of said county, and said county board shall within 30 days thereafter appoint a competent civil engineer and direct him to proceed to examine the land described in said petition and make the necessary surveys to enable him to report and file with the county auditor of said county a plat, therein describing each 40-acre tract or governmental lot covered by said petition and marking thereon the portion of said land proposed to be cleared and improved. Said engineer shall, as a part of his report, describe the kind of trees, brush, stumps or other similar materials or debris located upon said land and proposed to be removed by said proceedings, together with his estimate of the cost thereof, and the probable value of such material, if any, when removed, and shall accompany his report with specifications as to the manner of performing and completing said improvement. He shall also specifically describe the nature of the soil of each tract and any other conditions affecting the value, location or use of said land. Said report shall be in tabulated form and shall furnish said county board with an estimate of the cost of the improvement of each particular tract of land described, which report by the engineer shall be filed with the county auditor of said county within 30 days after his appointment, unless for good cause shown further extension of 30 days is granted him by the county auditor. Said engineer, before entering upon his duties, shall execute to the county board a bond in the sum of \$1000 conditioned for the faithful performance of his duties.

Sec. 5. Appraisers to be appointed—benefits—damages.—At the time of the appointment of the engineer as provided in Section 4 of this act by the county board or within 30 days thereafter, said board shall appoint three appraisers, residents of the State of Minnesota, but not interested in any of the land described in said petition or affected by the proposed improvement, who, upon the filing of the engineer's report or within ten days thereafter, shall be furnished by the county auditor with a copy of such report and, after taking oath as such appraisers to faithfully perform their duties in making said appraisals and report, shall personally visit the several tracts of land and examine the trees, brush, timber or similar material thereon to be removed, and shall especially examine the nature and quality of the soil and the benefits or damages resulting or to result from such improvement. Said appraisers, within 30 days from the date of their appointment or from the date of filing the engineer's report, shall make and file in the office of the county auditor a tabulated statement and report, therein describing each 40-acre tract or governmental lot described in the petition, reporting the condition thereof and the amount thereof already cleared or under cultivation; the amount proposed to be cleared; the value of

said land at the time of the appraisal; the value after the completion of said improvement; and the aggregate benefits or damages that will result to each 40-acre tract or governmental lot in consequence of said improvement; and shall by said report show the total cost of such improvement and the total benefits or damages that will result therefrom, together with any other facts affecting the value or use of said land or the advisability of the proposed improvement.

Sec. 6. Notice of hearing on petition—publication.—Upon the filing of such report with the county auditor of said county, he shall within ten days thereafter fix a date for a final hearing on said petition and engineer's and appraisers' reports and call a special meeting of the county board of said county for such date by giving notice as required by law therefor, which hearing shall be not less than 30 days from the date of said notice. Said notice shall specify the time and place for such hearing upon said petition and the reports of said engineer and appraisers, and shall notify and require all parties in any manner interested to show cause before said county board at the time and place specified in said notice why an order should not be made confirming the reports of the engineer and appraisers and ordering and directing that the improvement petitioned for be made, and fixing and determining the amount and extent of such improvement and the amount and value of the benefits or damages resulting to any land in consequence of said improvement. Said notice shall contain the names of the owners of the land as shown in the petition, together with a description of the land by 40-acre tracts or governmental lots, the amount of the estimated benefits and damages to each tract or parcel, and shall state that the engineer's and appraisers' reports have been filed in the office of said county auditor subject to inspection by any parties interested. Copies of such notice shall be mailed by the county auditor to all parties named in said petition, if their addresses are known to the auditor, at least 15 days prior to the date of said hearing. Said notice shall also be served by publication for three successive weeks in any legal newspaper published in said county, which newspaper shall be designated by the county auditor.

In all cases in which for any cause said notice shall not be given or is legally defective as given, the auditor shall fix another date for hearing in accordance with the provisions of this act so that the hearing upon the petition and the engineer's and appraisers' reports may be held at the earliest possible date, at either a special or regular meeting of said county board. Whenever any final order of the county board in any case shall have been set aside, annulled, or declared void by any court by reason of failure to give proper notice of said hearing, the county board may at any time within one year after the rendering of such judgment, upon application of the peti-

tioners, order a special hearing before said county board upon said petition and reports, and thereupon the county auditor shall cause a new and proper notice to be published and mailed as hereinbefore specified for re-hearing upon such petition and reports; and at such re-hearing the county board may proceed as in cases of original hearing.

Any hearing may be adjourned from day to day until completed.

Sec. 7. Hearing on petition.—Upon due publication and mailing of notice of hearing as herein provided, the county board of said county shall have jurisdiction of all matters named or referred to in said petition as originally presented, or as afterwards amended, and of each tract of land and of all parties in any manner interested therein, as named or described in said petition and said engineer's and appraisers' reports. Said county board may, at the time and place specified in said notice, receive all evidence offered relative to matters contained in said petition and said reports, including the amount of benefits and damages reported by the appraisers; and said county board shall have authority to amend or modify such reports, and may amend or permit the amendment of said petition to conform to any requirements of the statute, and may order stricken therefrom and from the reports of the engineer and appraisers any land found by the county board not suitable for the required purposes or for other reasons not suitably adapted to said improvement. The elimination of any such land or the names of any such petitioners or the withdrawal thereof shall not in any manner affect the jurisdiction of said county board; but the original petitioners, at any time before the date of hearing, may cause the dismissal of said proceedings upon the payment of all costs and expenses.

Sec. 8. Board may re-refer petition.—If at such hearing after the presentation of the evidence on behalf of all parties interested, it shall appear to the satisfaction of the county board that the appraisers have made unequal or improper assessments or estimates of benefits or damages, or for any reason the estimates of benefits or damages as reported by the appraisers are not fair and just, or are not in the proper proportion, or that the engineer's report is incorrect or for any reason not according to facts, said board may refer back to the appraisers and the engineer, or either of them, such reports for correction and amendment; or said board at said hearing may order them amended to conform to the facts, and upon such amendments being made the amended reports shall be treated as the final reports of the engineer or appraisers as the case may be.

Sec. 9. County board to order improvements.—If at said final hearing or adjournment thereof, the county board after due consideration of such original or amended reports of the engineer and appraisers and of such other evidence as may be produced, shall

find that said proposed improvements will be of public benefit and aid in preventing or abating forest fires, then said county board may order such improvements to be made in accordance with said petition and said reports. Such order shall fix and determine the rights of all persons connected with or affected by said proposed improvements subject to the right of appeal as herein provided.

Sec. 10. Appeal.—Any person aggrieved thereby may appeal from any such order of any county board upon any of the following matters:

First: The amount of benefits to any property in which such person so appealing is interested.

Second: The amount of any damages allowed in which such person so appealing is interested.

Third: The refusal of said county board to establish or order the improvement to be made.

Such appeal shall be made and taken to the district court in and for said county under the conditions and in the manner provided by law for like appeals in county ditch proceedings, particular reference being made to Section 5534, General Statutes 1913 (being Section 6687, General Statutes 1923); and such appeal shall be determined with like effect as provided in said section.

Sec. 11. County Auditor to receive bids.—Within ten days after the filing in the office of the county auditor of the order of the county board establishing and ordering any improvement under the provisions of this act, the county auditor shall give notice of a time and place for receiving bids for the making of said improvement in accordance with the provisions of Section 5536, General Statutes of 1913 (being Section 6689, General Statutes 1923), and the provisions of said section so far as applicable shall govern the receiving of bids and the letting of contracts for the making of said improvement. Said county auditor may let separate contracts for each separate tract upon which any part of such improvement is to be made, or may let one contract for the whole thereof, or for the clearing of land on the whole or on any number of such tracts. Such contract shall specifically provide for the removal of the trees, brush, stumps and other similar material located on the tracts of land covered by such contract, and shall specify what disposition shall be made of all such clearing debris in accordance with the direction of the county board. The county board may order and require that such contract shall contain provisions for the burning or destruction of all such debris or materials, or for the removal thereof, or for the use of said material where use can be made thereof. Where the material removed from any tract of land can be utilized for any purposes that will result in advantage to the owner of such land, the county board in such contract may provide for making such use of the trees or other prod-

ucts, and the assessment against such tract of land shall be lessened accordingly. To prevent the return of the land to its wild state and the consequent danger of forest fires, the county board may require that the land so cleared shall be seeded to grasses and clover, when it appears that the owner does not contemplate cropping the land so cleared at the next planting season following the completion of the clearing thereof.

Sec. 12. Engineer to inspect and have charge of work.—It shall be the duty of the engineer, from time to time as occasion may require, to visit the premises and examine the work performed by the contractor, and whenever and as often as 10% or more of such work is completed, said engineer may issue a certificate to the contractor and a duplicate to the county auditor, therein certifying the amount of work that has been done by the contractor and the value thereof. Upon the filing by the contractor of such certificate with the county auditor, he may draw his warrant in favor of the contractor for a sum not to exceed 75% of the contract price of the work done since the last report. When the contractor shall have notified the engineer that he has completed the work, the engineer shall make careful examination and report to the county auditor the facts as he finds them; and if he finds said contract to be completed in accordance with the terms thereof, he shall so certify. Thereupon the county auditor shall notify the owners of said land that a hearing will be had upon the report of the engineer that said contract is completed, which hearing shall be held by the county board at the next meeting following the filing of such report, if not less than 15 days thereafter; otherwise, as soon as possible. At such hearing all parties interested may appear before said county board; and if said county board shall find said contract fully completed they shall order payment of the balance owing under the contract.

Sec. 13. County Board to issue bonds.—The county boards of each and every county wherein any improvement is ordered constructed under the provisions of this act is hereby authorized to issue the bonds of their respective counties in such amount as may be necessary to defray in whole or in part the expense incurred or to be incurred in establishment and completion of said improvement, together with all expenses incidental thereto; and the provisions of Section 5542, General Statutes of 1913 (being Section 6696, General Statutes 1923) shall apply thereto, and the county board is hereby authorized to exercise all the authority specified in said section in providing the funds for the completion of any improvement authorized by the provisions of this act; and wherever the term "drainage ditch" or "drainage bond" appears in said section, the same for the purposes of this act shall be construed as reading "improvement" or

"land improvement bond" as the case may be. In the event that the bonds authorized under the terms of this act are not sold at advertised sale, the county board may let contractors as herein provided whenever the contractor is willing to accept payment for such contract in bonds at par. Provided, however, that no county may incur any indebtedness for the purpose of this act in excess of 5% of its taxable valuation, exclusive of money and credits.

Sec. 14. County Auditor to make tabular statements.—At as early a date as possible after letting the contract or contracts under any improvement authorized by this act, and as soon as the cost of said improvement and expenses connected therewith can be ascertained, the auditor of the county shall make in tabular form a list and statement as provided by Section 5543 of the General Statutes of 1913 (being Section 6703, General Statutes 1923), and the cost of making the improvement of each tract together with its proportionate share of the total expenses shall be assessed against such tract, and the provisions of said section so far as applicable shall govern the proceedings under this act. The county auditor is hereby authorized to exercise all the rights and authority granted by such section, and in all places where the term "ditch" or "drainage ditch" shall appear in said section, the same for all purposes of this act shall be construed as reading "improvement" and said section used and applied accordingly. Said county auditor, after preparing the said statement, shall cause a duplicate thereof to be filed in the office of the register of deeds in and for said county as provided in Section 5544, General Statutes of 1913 (being Section 6705, General Statutes 1923), and the provisions of said section shall apply to the proceedings under this act. The county auditor and register of deeds are hereby authorized to exercise the rights and authority and perform the duties here specified, and the provisions of Sections 5546 to 5548, General Statutes of 1913, both inclusive (being Sections 6712 and 6713, General Statutes 1923), shall apply to and govern the proceedings under this act. The county auditor, the county treasurer, and the register of deeds are each hereby authorized and required to perform in all proceedings under this act the duties specified in said sections of the General Statutes of 1913 and 1923; and in all cases where the term "ditch" or "ditches" or any other similar term appears in said sections of the General Statutes, the same for all purposes of this act shall be construed as reading "improvement."

PART II.

Sec. 15. Towns, cities and villages may make improvements.

All towns, cities and villages are hereby authorized and empowered to contract debts and pledge the public credit for, and to engage in, any work reasonably tending to prevent or abate forest fires. Provided, however, that the amount of such indebtedness so contracted

or assumed shall never be such as to increase the total public indebtedness of any such town, city, or village beyond the limits now or hereafter fixed by the laws specifically relating thereto, except in case of actual emergency to be declared (at or subsequent to the time) by resolution or other appropriate action of the town board, city or village council, or other governing body, as the case may be. And for such emergencies the total public indebtedness shall never be increased at any time so as to be more than five per cent in excess of the maximum provided by general law.

Sec. 16. Governing body to maintain fire breaks.—The governing body of any town, village, or city may construct and continuously maintain good and sufficient fire-breaks for the protection of life and property within such municipality. And for such purposes any village or city may completely clear all land and remove all combustible or inflammable materials therefrom within 1000 feet next beyond and outside of the boundary lines of such village or city, whenever and wherever such improvement will reasonably tend to prevent or abate forest fires.

Sec. 17. Benefits to be lien on property.—If any clearing or other improvement of land made by any town, village or city benefits any person, or benefits some and damages others, than the amount of both such benefits and damages shall be ascertained in the same manner as provided by law with respect to damages in condemnation proceedings by right of eminent domain. And all provisions of law relating to the determination of the amount of damages in condemnation proceedings shall also apply to the determination of the value of benefits under this section, as far as practicable. Any benefits so found shall be assessed against, and shall be a lien upon, the real property so benefited, and shall be noted upon the public records and collected upon the same terms and in substantially the same manner as now provided by Chapter 113, General Laws 1911 (particular reference being made to Sections 8, 9 and 10 thereof), relating to ditch and drainage assessments.

PART III.

Sec. 18. Municipalities may issue bonds.—For any of the purposes authorized in this act, and within the limits herein fixed, any county, town, city, or village may borrow money and issue bonds for the payment thereof with the approval of a majority of the voters, as provided by the general laws relating to bond issues; may make all necessary, proper, and convenient provisions for sale of such bonds at not less than par, for payment of interest thereon at not more than six per cent per annum, and of the principal thereof at maturity or contingently at an earlier date; may issue promissory notes or certificates of indebtedness as far as reasonably necessary to procure funds in case of emergency not affording time to submit the matter to the voters; and for such purposes may levy and

collect taxes annually upon all the taxable property of such municipality. As to counties, the powers conferred by this section shall be deemed supplementary to, but in no way lessening or detracting from, the powers and authority conferred by Section 13 of this act.

Sec. 19. May acquire property by condemnation.—Whenever necessary in the exercise of the powers and authority conferred by this act, any county, town, city, or village may acquire property or property rights by gift, by purchase, or by condemnation in any manner now or hereafter provided by law.

Sec. 20. All proceedings to be under governing bodies.—Counties doing anything under this section shall act by and through county boards; towns by and through town boards; and cities and villages by and through their councils or other governing bodies. And it shall be the duty of all such municipalities and their officials and employes to co-operate as far as possible with the state forester and other state employes in the forestry service. In all cases where forest fires are actually burning, the orders and directions of the state forester and district rangers shall be binding upon, and must be obeyed by, all officials and employes of any municipality until such fires shall have been extinguished.

Sec. 21. Application.—Wherever in this act it is provided that any section or provision of the General Statutes for 1913 or 1923 or any session laws or general laws shall be deemed applicable in this act for any purpose, the said sections and provisions of said other laws so incorporated in this act by such reference shall include all existing amendments thereto made prior to the year 1925, but not thereafter. And if any such law so incorporated by reference shall be hereafter repealed, the same shall nevertheless be and remain a part of this act unless such repeal expressly and explicitly provides to the contrary through direct reference to this act.

Sec. 22. Definition.—For the purposes of this act, the following words and terms have the following meanings, to-wit:

(a) The word "person" means and includes a natural person acting either for himself or in any representative capacity, a corporation, a firm, a co-partnership, or an association of any nature or kind. The masculine includes the feminine and the singular includes the plural, and vice versa, wherever necessary to give full force and effect to all the provisions of this act.

(b) The term "county board" means the board of county commissioners; and the term "town board" means the board of town supervisors.

(c) The term "improvement" means and includes any act or thing done or which may be done, and any construction made or structure erected or which may be made or erected, and any removal from any land of trees, brush, stumps or other debris, which reasonably tends to prevent or abate forest fires.

(d) The term "forest" means every area where coniferous or evergreen trees at any time are growing or existing, including swamps, peat-bogs and cut-over lands.

Sec. 23. Unconstitutionality of one part not to affect balance. The parts, sections and provisions of this act are separable. If any part, section, or provision shall be held unconstitutional, all other parts, sections, and provisions shall nevertheless be and remain in full force and effect.

Sec. 24. Inconsistent acts repealed.—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed so far, and only so far, as necessary to give full force and effect to this act.

Approved April 18, 1925.

CHAPTER 264—H. F. No. 788.

An act authorizing the Board of County Commissioners in any county in the state to appropriate or borrow funds for the purpose of aiding the County Attorney in investigation of violations of the law by banks organized under the Laws of the State of Minnesota.

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

Section 1. County Board may appropriate money for use of County Attorney in certain cases.—That the County Board of any county in this state upon the request of the County Attorney of such county may appropriate for the use of the County Attorney such funds not otherwise appropriated, as he deems necessary for the investigation and the procuring of evidence when he has reason to believe that any closed bank, savings bank, trust company or building and loan association incorporated under the laws of the State of Minnesota has violated any provision of law. Such amount shall be in addition to the contingent fund of such county now allowed by law and shall be disbursed only on order of a District Judge of the district in which any such county is located, approving such expenditure.

Sec. 2. County Board may borrow money if necessary.—The county board, if no funds are available, may borrow such money as it deems necessary to carry out the provisions of this act, but such loan shall not run over one year.

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

Sec. 4. All acts or parts of acts inconsistent herewith are hereby repealed.

Approved April 18, 1925.