

Hundred and Fifty Thousand Dollars. (\$1,250,000) per year nor less than Seven Hundred Fifty Thousand Dollars (\$750,000) per year.

Sec. 9. Not to use funds after emergency is over.—Specific directions are hereby made upon said Executive Council to not use any of the funds provided for in this act and available for the year ending July 1, 1937, unless it shall appear to said Council that an emergency then exists substantially similar to the one now prevailing.

Sec. 10. This act shall take effect and be in force from and after its passage.

Approved March 16, 1935.

CHAPTER 52—H. F. No. 965

An act authorizing the State to cooperate with the Federal Government for the acquisition and retirement of certain sub-marginal lands; for the establishment thereon of a federal migratory wild fowl refuge: Providing for acquisition by condemnation proceedings by the State of lands and the sale and conveyance thereof to the United States Government, and providing for the means of payment therefor and procedure for the taking thereof.

WHEREAS, under and pursuant to the provisions of the National Industrial Recovery Act, the United States of America has initiated a program providing for the general welfare, to conserve national resources and to rehabilitate people living on sub-marginal land, and to carry such program into effect has created The Land Program of the Federal Emergency Relief Administration, and

WHEREAS, the Administrator of the Federal Emergency Relief Administration and the Director of the Land Program of the said Administration have approved a project for the acquisition and establishment of a migratory water fowl refuge in Marshall County, Minnesota, in the area known as Mud Lake, and

WHEREAS, the Bureau of Biological Survey, United States Department of Agriculture, has approved a program for the construction of certain public works thereon involving the expenditure of funds in excess of \$100,000, and

WHEREAS, the Director of said program has allocated for such purpose a sum not to exceed \$369,000 for the purchase of approximately 52,713 acres of land in said area in Marshall County, and

WHEREAS, the State of Minnesota is desirous of cooperating with the United States of America in its program providing for the general welfare, to conserve natural resources and to rehabilitate people living on sub-marginal lands and to expedite the purchase of the lands necessary for the creation of said migratory water fowl refuge, and

WHEREAS, the acquisition of said area in Marshall County by the Federal Government and the improving of said area will be of great benefit to the State of Minnesota in the rehabilitation of the occupants of said area and in furnishing needed work relief in that part of the State, and

WHEREAS, in order to enjoy the maximum benefit of the program as aforesaid it is necessary that such program be put into immediate force and effect and to that end it is desirable that the regular statutory procedure in eminent domain be modified in certain respects in order to expedite the acquisition and improvement of such lands and provide for the payment thereof; Now, Therefore,

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

Section 1. Commissioner of conservation to acquire lands in Marshall county.—The commissioner of conservation of the state of Minnesota is hereby authorized to acquire for the state by the use of condemnation proceedings, to be brought under Mason's Minnesota Statutes of 1927, Chapter 41, and amendments thereto, and such specific provisions and additions thereto as are provided in this act, all lands in the Mud Lake area in Marshall County desirable for a migratory wild fowl refuge and such other lands within the state as the Federal government may desire to acquire for conservation purposes, the acquisition of which shall first have been approved by the state executive council.

Sec. 2. Mud Lake acquisition revolving fund created.—There is hereby created a fund to be known as the Mud Lake Acquisition Revolving Fund. The sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated for the purpose specified in this act from the fund created by Laws 1929, Chapter 332, Section 6, and designated in the records of the State Auditor as "Public Shooting Grounds Fund". Such appropriation shall be made available immediately and shall be credited to such Mud Lake Acquisition Revolving

fund. The fund thus created shall be used to pay the expenses of condemnation, including publication fees, sheriffs' fees, commissioners' and witnesses' fees, and all other expenses incidental to such proceedings, not to exceed a total of \$10,000, and to pay awards to the owners of the lands so taken.

Sec. 3. Lands to be conveyed to United States.—All lands acquired under the provisions of this act shall be sold and conveyed to the United States of America by the commissioner of conservation for the amount which has been paid out therefor, including the costs incidental to the proceedings for the condemnation thereof. All monies received from the United States of America in payment for such lands shall be deposited in such revolving fund. When the acquisition of land for such Mud Lake project shall have been completed, and all the costs and expenses incidental thereto shall have been paid, and the United States shall have paid in full for such land, all monies in such fund shall be transferred back to said Public Shooting Grounds Fund from which it was appropriated and the Mud Lake acquisition revolving fund shall cease to exist: Provided, that such transfer shall not be made prior to January 1st, 1937; and provided, that in the event that the acquisition of lands for other federal projects authorized by the state executive council shall then be in progress, such Mud Lake Acquisition Revolving fund shall be maintained until such acquisitions have been completed.

Sec. 4. Unexpended balances may be used for other projects.—In the event that additional funds are made available by the Federal government at any time prior to January 1st, 1937, for the acquisition of lands in projects other than the Mud Lake project, the provisions of this act shall apply to and govern such acquisition or acquisitions and any unexpended balance in the Mud Lake acquisition revolving fund may be used in furtherance of the acquisition of land involved in such project in the same manner and subject to the same limitations as monies in said Mud Lake acquisition revolving fund may be used in furtherance of the acquisition of land for the Mud Lake project: Provided, that each such project and the transfer of title to the land therein involved to the United States shall first receive the approval of the state executive council and the commissioner of conservation.

Sec. 5. May exercise rights of eminent domain.—The eminent domain statutes of this state and all acts and amendments thereto and the provisions of this Act shall be liberally construed for the purpose of making possible an expeditious procedure in the condemnation proceedings authorized by this act.

Sec. 6. Commissioners must be residents of state.—The commissioners provided for by Mason's Minnesota Statutes of 1927, Section 6543, shall be residents of the state but need not be residents of the county in which is located the land which the state is seeking to acquire.

Sec. 7. Court to determine indebtedness.—The court shall determine the amount of the bonded and floating indebtedness of each township and school district, lying wholly or partly within the area covered by any condemnation proceedings under this act, and the amount of cash available, and to become available from the payment or settlement of delinquent and current taxes, for the liquidation thereof, and shall deduct from the award of damages made to each owner of lands taxable for the payment of such indebtedness his pro rata share of the remainder of such indebtedness, computed upon the basis of the relative assessed value of his land to the total assessed value of all land taxable for the payment thereof, and the total amount of such deductions shall be paid to such township or school district, and shall be applied in redemption of such indebtedness.

Sec. 8. Procedure.—In lieu of the procedure authorized by Mason's Minnesota Statutes of 1927, Section 6552, the procedure under this act shall be as follows:

All damages allowed under this act, whether by the commissioners or upon appeal, shall start to bear interest thirty days after the time of the filing of the commissioners' report. Unless otherwise extended by the order of the court, if the award be not paid to the land owner or into court within 90 days after the filing of the commissioners' report or, in case of an appeal, be not paid within 90 days after final judgment has been entered on such appeal, the court, on motion of the owner of any tract of land included in the proceedings may vacate the award and dismiss the proceedings as to such land. In such event, the owner of the land may upon notice of motion before the court recover reasonable costs and expenses including reasonable attorney's fees. At any time prior to the payment of the award for the land into court or otherwise and, in the event that there is no appeal, less than 90 days after the filing of the commissioners' report and, in case there is an appeal, less than 90 days after final judgment has been entered on such appeal, the petitioner may dismiss the entire proceedings or any part thereof or any tract therefrom without liability for costs, expenses or attorney's fees: Provided, that in case the petitioner shall have taken possession of any parcel of land and shall thereafter dismiss

the proceedings as to that parcel, damages shall be awarded for any damages resulting from such taking of possession.

Sec. 9. Procedure.—In lieu of the procedure authorized by Mason's Minnesota Statutes of 1927, Section 6557-1, the procedure in condemnation proceedings under this act shall be as follows:

(a) The report of commissioners shall be filed with the clerk of district court within 90 days from the date of the order appointing such commissioners, unless the court at the request of the petitioner shall order an extension of the time for filing such report.

(b) At any time within ten days from the date of the filing of such report, any party to the proceedings may appeal from any award of damages embraced in said report, or from any omission to award damages, by filing with the clerk a notice of such appeal. Such notice of appeal shall specify the particular award or failure to award appealed from, the nature and amount of the claim, the land to which it relates, and the grounds of the appeal. Upon appeal the prevailing party shall recover costs and disbursements. Upon request made by the petitioner such appeal shall be set for trial at either a general or special term of the court at a date as early as possible and in no event more than 30 days after the filing of notice of the appeal, except that the petitioner request an extension of time which shall be granted by order of the court.

(c) Payment of the damages awarded may be made or tendered at any time after the filing of said report. In all cases the petitioner may pay the amount of the award for any tract of land to the clerk of court to be by said clerk paid out under the direction of the court. Unless an appeal is taken within the time provided in this act from the award made by such commissioners for any tract of land the payment so made to the clerk shall be deemed a payment of the award for such tract of land and shall entitle the petitioner to present to the court for approval the certificate described in subsection (d) following.

(d) The notice of filing of report provided for in Section 6545 Mason's Minnesota Statutes of 1927 shall be dispensed with; as shall also the final decree provided for in Section 6553 Mason's Minnesota Statutes of 1927, provided the attorney for the petitioner make a certificate describing the land taken and the purpose or purposes for which taken, and reciting the fact of payment of all awards or judgments in relation thereto, which certificate upon approval thereof

by the court shall establish the rights of the petitioner in the lands taken and shall be filed with the clerk and a certified copy thereof filed for record with the register of deeds. Such record shall be notice to all parties of the title of the state to the lands therein described. The awards of the commissioners may be filed severally upon any tract or number of tracts and after payment and expiration of the time for appeal thereon as hereinbefore provided, such certificate or certificates of titles may be presented for the approval of the court.

(e) The commissioner of conservation, unless they are lands already devoted to a public use, at any time after the filing of a petition for the condemnation of any lands under this act, may take possession of such lands.

(f) Whenever a condemnation proceeding shall have been commenced by the filing of a petition under this act, in order to expedite the acquisition of title to any parcel or parcels of land included in such proceeding, the commissioner of conservation may certify to the court the necessity for the immediate taking of title to such parcel or parcels of land and the court may thereupon approve an appropriate final certificate certifying that title to such parcel or parcels has vested in the state, provided that the state shall first have made adequate provision for the payment of just compensation for such parcel or parcels by the deposit with the clerk of court of money, or a surety bond conditioned for the payment to the owner or owners of such parcel or parcels of the final award therefor, such deposit of money or of a surety bond to be in such amount and, as to the surety bond, in such form as the court shall deem adequate to insure payment to the land owners of the full amount of the final award. The court may direct the commissioners as to the order in which they shall view and appraise the lands taken or to be acquired.

Sec. 10. Commissioners to forfeit pay when.—In case commissioners appointed under this act shall fail to file their awards within the time required they shall forfeit all right to reimbursement for their services.

Sec. 11. Provisions severable.—The provisions of this act shall be held to be severable. In case any provision hereof shall be held unconstitutional no other provision hereof shall thereby become inoperative.

Sec. 12. All acts and parts inconsistent herewith are hereby superseded, amended or modified so far as may be necessary to give full force and effect to the provisions of this act.

Approved, March 18, 1935.