

CHAPTER 91.

AN ACT TO PROVIDE FOR THE DRAINING OF WET LANDS,
MARSHES AND SWAMPS.

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

SECTION 1. That any person owning or possessing any swamp, marsh or wet lands, who shall desire to drain the same, and when he shall deem it necessary, in order thereto, that a ditch or ditches should be opened through lands belonging to other persons, in case the owners of such lands shall refuse to permit the opening of such ditch or ditches through the same, or if the parties cannot agree upon the terms thereof, he may make application in writing to the township supervisors of the township where such marsh, swamp or wet lands shall be situated, to enquire and determine whether such marsh, swamp or wet lands are a source of disease to the inhabitants, and whether the public health would be promoted by draining the same, and to inquire and determine whether such ditch or drain is necessary for the proper cultivation of the same, and whether the permanent assessed value of said lands will be increased by such drain; said application shall be filed with the township clerk.

How ditches
may be opened.

SEC. 2. Such application shall state through whose premises, if known, it is necessary for such ditch or ditches to pass, and shall also describe said lands. Ten (10) days notice shall be served upon the owners of said lands, in like manner as notices are required to be served in commencement of actions before justices of the peace, and said notice shall state at what time said application will be filed; and in case the owner of any of said land shall be unknown to the applicant, or a non-resident of the county or State, then three (3) written notices shall be posted for ten (10) days in three (3) public places in the neighborhood of said land, and in the township in which it is situated.

Form of appli-
cation to
supervisors.

SEC. 3. Upon the filing of said application, the supervisors shall agree upon a time when they will hear and determine upon said application, and also shall agree upon the place of meeting, which shall be at or near the premises described in said application. They shall give ten (10) days notice of such time and place of meeting, to all persons interested, by posting up three (3) written notices thereof in three (3) public places in said township, and upon the day set apart for hearing said application, said supervisors, or a majority of them, shall have power to hear and determine the matters contained in said application; or such supervisors may adjourn the hear-

Action of
supervisors.

ing thereof not more than ten (10) days, and upon a final hearing said supervisors, or a majority of them, shall personally examine all lands liable to be affected by said work, make out a list of the same, and shall assess the amounts of benefits or injury to each tract of land, and shall make out a schedule thereof, with their assessments aforesaid, and shall append thereto their affidavit that the same is in all respects a true assessment, to the best of their judgment and belief, and cause the same to be filed in the office of the register of deeds of the county in which the land is situated, and from which filing said assessment shall be a lien upon said several tracts respectively.

Sec. 4. Said supervisors shall determine whether it is necessary to pass through any of said lands, and if they find it necessary, they shall also determine the direction in which the said drain shall run, and the depth and width thereof as near as may be, and shall reduce their decision to writing, and file the same with the town clerk, together with a correct plat and specifications of said drain, and said supervisors may employ the county surveyor to make such plat and specifications, who shall be paid in the same manner as other costs and expenses of this proceeding.

When work
may be done.

Sec. 5. The person or persons making the application for the drain, may, under the order of supervisors, enter upon the premises through which said drain is located, and construct the same in accordance with said specifications, upon the payment of the damages assessed, if any, as herein-after provided.

Relating to
damages.

Sec. 6. If the supervisors shall be of the opinion that the drain will be a damage to the lands through which it is to pass, then they shall assess the amount of damages to be paid to the owner thereof, and after payment of the amount so assessed, the person or persons making the application may enter upon said lands and construct the same. *Provided*, the owner be a resident of the county, or have an agent in the county known to the applicant, and if no damages be assessed, then the applicant shall have full power to enter upon the land through which said drain passes, with the necessary implements to accomplish said work.

Relating to
benefits and
payment
therefor.

Sec. 7. If the supervisors shall be of the opinion that the drain will be of benefit to the lands through which it is to pass, then they shall assess the amount of benefit to the owner of said lands, in money value, and when said work is completed according to specifications, it shall be lawful for said applicant to demand of and receive from the owners of said lands, or any one of them, the amount of benefits so assessed against his said lands, and if the same shall not be paid within ten (10) days after demand, the supervisors shall, on request of the applicant, make out a list of the lands so benefited, and a schedule of the assessments made against said lands, and shall append thereto their affidavits

that the same is in all respects a true assessment, to the best of their judgment and belief, and cause the same to be filed in the office of the register of deeds of the county in which the land is situated, and from which filing said assessment shall be a lien upon said several tracts respectively, with interest at the rate of ten (10) per cent. per annum until paid, and said lands shall not be transferable until such demands are satisfied. *Provided*, that if the owner of the land so assessed is a non-resident of the county, or if he is reported unknown on the last official tax list, the applicant shall insert a copy of the list of lands describing them, and a schedule of assessments of the same, with the affidavits of the supervisors, once in a weekly paper, published in the county where said lands is situated, if there be any, and if no paper is published in said county, then the same shall be published in a weekly paper in a next adjoining county, nearest to said drained premises.

SEC. 8. Either party feeling aggrieved by the decision of the supervisors in the assessment of damages, may appeal to the district court of the county in which the land is situated, and the said court may hear and determine in all matters relating to said assessments, but so much of the decision of the supervisors as relates to the location, width, and depth of said ditch or ditches, shall be final; an appeal bond shall be required as in cases of appeal from justices of the peace, and the same shall be filed with the township clerk, who shall approve it, and immediately thereafter shall certify all the original papers to the clerk of the said district court. Manner of appeal.

SEC. 9. After said drain is completed, it shall be kept in repair under the direction of the supervisors if the parties can not agree between themselves, and when applied to in writing by any person owning land through which such drain shall run, said supervisors shall examine the same, and may make such orders in regard to the repair thereof and cleansing the same, as they may deem just and equitable, giving the owner of the land reasonable time to make or cause to be made such repairs himself, and if after the expiration of said time, the work is not done, the supervisors may hire or contract with some other person or persons to do said work, to be assessed and paid according to section seven (7) and thirteen (13) of this act. How drain to be kept in repair.

SEC. 10. Whenever any person or persons may desire to drain his or their lands by the construction of a new ditch connecting with a drain previously constructed upon the lands of any other person or persons, he or they shall be entitled to the benefit of the provisions of this act, by the supervisors estimating the benefits that would accrue to or the damages likely to be sustained by the person or persons through whose lands the same may pass in order to communicate with such old ditch, drain, or outlet, and proceedings in such cases shall in all respects be similar to those in this New ditches connecting with drains previously constructed.

act hereinbefore mentioned. *Provided, however,* that if the volume of water discharged by such new ditch or drain is too great for the old ditch to carry off without causing an overflow of adjoining lands, it shall be the duty of the person or persons constructing such new ditch or drain, to widen, deepen and enlarge the capacity of the old ditch, so as to make it of sufficient size for the flow of such increased volume of water at the ordinary stages thereof; and in case of failure or refusal to do so, for the space of thirty (30) days after the completion of such new ditch, he or they shall be liable from time to time to the owners of land along the line of said old ditch, for all damages he or they may sustain in consequence thereof, with ten (10) per cent. thereon, and costs of action, to be recovered by suit in courts having jurisdiction in the county where said ditch or ditches are situated.

Bridges across highways.

SEC. 11. If any drain constructed under this act shall cross a highway, excepting railroads, it shall be bridged at the expense of the applicant or applicants said bridging, to be done in the manner prescribed by the board of town supervisors of said town.

Damming or injury to ditches—penalty.

SEC. 12. Any person or persons who shall dam up, obstruct, or in any way injure any ditch or ditches so opened, shall be guilty of a misdemeanor, and upon conviction thereof, be liable to a fine of not less than ten (10) nor more than one hundred dollars (\$100), or imprisonment in the county jail for not less than ten (10) nor more than thirty (30) days, and any person or persons so obstructing, or in any manner injuring any ditch or ditches, constructed under this act, or existing previously, shall be further liable to the person or persons owning or possessing the swamp, marsh, or wet lands, for the draining of which such ditch or ditches shall have been opened, in double the amount of damages that shall be awarded in any competent court; and in case of a second, or other subsequent offense, by the same person, treble such damages.

Pay of supervisors.

SEC. 13. Township supervisors shall receive for their duties under this act one dollar and fifty cents (\$1.50) per day, and the town clerk shall receive for filing each application the sum of twenty-five (25) cents. The surveyor, when employed, shall receive the fees prescribed by law for like duties performed by him. The register of deeds shall receive the usual filing fee for all papers filed in his office under this act. The supervisors shall assess the entire costs of all proceedings under this act, proportionately upon the person or persons benefited in each instance, and shall make the same a part of their schedule, as provided for in section three (3) of this act; but said supervisors may, at their discretion, require the costs to be paid in advance by the party making the application.

Costs to be assessed.

SEC. 14. The town clerk shall, upon the completion of any ditch in his town, constructed under this act, or upon

the repairing of any where the services of the supervisors are required, make and file with the register of deeds of his county, a copy of all papers appertaining to each individual ditch; provision for the lawful fees for same shall be made by the supervisors in their assessment for costs.

Filing of
papers.

SEC. 15. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 16. This act to take effect and be in force from and after its passage.

When act to
take effect.

Approved March 3, 1877.

CHAPTER 92.

AN ACT TO PROVIDE FOR THE PAYMENT OF THE BONDS KNOWN AS THE "MINNESOTA STATE RAILROAD BONDS."

WHEREAS, certain bonds commonly known as "Minnesota State railroad bonds" are outstanding against the State, having attached a large number of past due coupons, and

WHEREAS, the holder of a large amount of said bonds has made a proposal to exchange said bonds for a new issue of bonds, and for an equitable adjustment of the interest due thereon; therefore, for the purpose of retiring said railroad bonds, and paying the same by an issue of bonds bearing a reduced rate of interest—

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

SECTION 1. That the Governor, Auditor of State and Attorney General, and their successors in office, are hereby constituted a board to be known as the commissioners of the public debt of Minnesota. The Governor shall be president, and the Auditor secretary of the board, and a majority shall be a quorum for business. The secretary shall keep a record of all proceedings of the board and perform such other duties connected with its business as the board may order. The expenses incurred by the members of the board, in the discharge of their duties, shall be paid on the approval of the Governor, by an order on the treasurer, from the contingent fund of said board.

Commissioners
of public debt.

SEC. 2. Said board shall have power to do all acts necessary to carry into effect the provisions of this act, whether