

## CHAPTER 128.

AN ACT TO AMEND SECTION TWENTY-THREE (23) OF CHAPTER FIFTY-SEVEN (57) OF THE GENERAL STATUTES OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY-EIGHT (1878), RELATING TO SALES OF LANDS BY GUARDIANS IN CERTAIN CASES.

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

SECTION 1. That section number twenty-three (23) of chapter fifty-seven (57) of the statutes of one thousand eight hundred and seventy-eight (1878), be amended to read as follows:

Sec. 23. When the goods, chattels, rights, and credits in the hands of a guardian are insufficient to pay all the debts of the ward with the charges of managing the estate, the guardian may be licensed to sell or mortgage the real estate of his ward in like manner and upon like terms and conditions as are prescribed in this chapter in the case of a sale by executors or administrators, except as hereinafter provided; *Provided*, That no guardian shall be licensed to mortgage the real estate of his ward for any purpose except to pay the debts of his ward contracted prior to his appointment as guardian; *Provided further*, That no guardian shall be licensed to mortgage the real estate of his ward for a longer period than three (3) years from the granting of such license.

When may sell or mortgage real estate of wards.

For what purpose licensed to sell.

SEC. 2: This act shall take effect and be in force from and after its passage.

When act to take effect.

Approved February 17, 1885.

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 CHAPTER 129.

AN ACT TO AUTHORIZE THE SELECTION, LOCATION AND APPROPRIATION OF CERTAIN LANDS IN THE COUNTY OF HENNEPIN AND STATE OF MINNESOTA, FOR A STATE PARK FOR HORTICULTURAL AND MECHANICAL STATE EXHIBIT GROUNDS, AND FOR THE LOCATION OF OTHER STATE INSTITUTIONS AND BUILDINGS.

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

SECTION 1. Within ten (10) days after the passage of this act there shall be appointed by the governor, by and

When commissioners to be appointed.

*Amended  
1887  
1887*

with the consent of the senate, if it shall be in session, but if not then in session, without such consent, five (5) commissioners, all of whom shall be residents of the state of Minnesota, who are hereby appointed and constituted a board of commissioners by the name and style of "The Commissioners of the State Park at Minnehaha Falls." Said commissioners shall hold office for the term of five (5) years from and after the passage of this act, and until others are appointed in their places in the manner herein prescribed for the appointment of the first board. No member of said board shall receive any compensation for his services, but each commissioner shall be entitled to receive his actual disbursements for his expenses in performing the duties of his office. In case any of the persons so appointed as above will not undertake the office of this commission, or in case of any vacancy in said board, such vacancy shall be filled by the governor, and the person so appointed shall hold his office for the term of five (5) years from the date of his appointment, and until another shall be appointed in his place.

Term of office—  
compensation.

Vacancy—how  
filled.

Power of board  
of commission-  
ers.

Cause survey  
to be made.

When first  
meeting of ward  
to be held.

Oath of office.

SEC. 2. The said board shall have power to select and locate such lands in the county of Hennepin, in the state of Minnesota, not exceeding two (2) hundred acres, in one body, embracing the falls of Minnehaha, as may, in their opinion, be proper and necessary to be reserved for a state park, [for] horticultural and mechanical state exhibit grounds, and for such state buildings and institutions as may hereafter be found necessary and expedient. Before any proceedings shall be had or taken for acquiring the title of any of the said lands, the said commissioners shall cause to be made a survey and map of the said land which they shall determine to take, which shall be certified by a majority of said commissioners and filed in the office of secretary of state and in the office of the register of deeds of Hennepin county. The said map shall contain the names of the owner, mortgagees and judgment creditors of each specific tract of land proposed to be taken, so far as known to the commissioners, or to be ascertained from the records in the office of the register of deeds of the county.

SEC. 3. Within twenty (20) days after the passage of this act the governor of the state of Minnesota shall fix a day and hour for the first meeting of the said board of commissioners at the governor's room in the capitol in St. Paul, which day shall be within thirty (30) days from the passage of this act, and he shall notify the commissioners of the time and place of said meeting. The said commissioners shall meet at the time and place so appointed, and shall qualify by taking an oath to discharge the duties of their office to the best of their ability, which affidavit shall be filed in the office of the secretary of state. The said commissioners shall at said meeting choose a president of said board, who shall be a member thereof, and shall appoint

some person to act as secretary and treasurer of said board. After the filing of said map, as above required, the commissioners shall give written or printed notice to each owner, mortgagee and judgment creditor of the several tracts proposed to be taken, so far as they can be ascertained, as hereinbefore provided, declaring that the state of Minnesota intends to take and appropriate the lands described by the said survey, as shown by said map, and acquire title thereto, and that the said commissioners intend to apply to the district court of the fourth (4th) judicial district, which is hereby vested with jurisdiction to hear and decide any matter arising under this act, at a general or special term thereof, for the appointment of three freeholders, residents of the state of Minnesota, on a day in said notice named, to act as appraisers to ascertain and report the just compensation to be paid to the person or persons or corporation owning or having any interest in said property, which notice shall be served on the owners and parties in interest in the same manner as a summons in a civil action is now provided to be served by the laws of the state of Minnesota. In case of non-resident owners or other parties in interest, the notice may be served in the same manner as now provided by statute for service of summons by publication.

Board to choose officers.

To notify owners of property—when.

Non-residents, how notified.

SEC. 4. Upon the day designated in said notice, or on some other day, to be named by said court, the court shall hear the application of said commissioners, and shall appoint three (3) disinterested appraisers for the purpose aforesaid. And in case any appraiser shall decline to serve, the said court may, on application of said board of commissioners, upon notice of such vacancy and application to be published in a newspaper to be named by the court, published in the county where such lands are situated, for ten (10) successive week days, appoint another appraiser in his place.

Court to hear applications and appoint appraisers.

SEC. 5. The appraisers shall, before they enter upon their duties, take and subscribe an oath, to be administered by some person authorized to administer oaths, faithfully to perform their duties according to the best of their ability. They shall give notice of the time and place of their meeting to view the said property, by publishing the same in a newspaper designated by said court, published in the county for ten (10) consecutive week days, which meeting shall not be less than ten (10) days after the last publication of said notice.

Appraisers to take oath to faithfully discharge their duties.

Notice of time of meeting to be published.

SEC. 6. The appraisers shall together view such property, and shall receive any legal evidence as to the compensation that should be made, and may adjourn from time to time. They shall ascertain and award to the respective owners of the property to be taken, and to all persons or corporations interested therein, such compensation therefor, as in their opinion shall be just and proper, and in fixing the amount of such compensation, said appraisers shall

To ascertain and award amount of compensation.

not make any allowance or reduction on account of any real or supposed benefits which the parties interested may derive from the said park or improvement for which said lands are to be taken. In case of railroads having the right of way through any lands so selected for the said park, the title shall be taken subject to the rights of the corporation or corporations having such right of way. The report of said appraisers, signed by them or a majority of said appraisers, shall be filed in the office of the clerk of said district court as soon as completed, and said report shall be made and filed within six (6) months from the time of their appointment.

When report to be filed.

Duty of county commissioners when report made.

SEC. 7. After the report of the said appraisers shall be so filed, the board of commissioners shall give notice by publishing the same in ten (10) successive week day numbers of some newspaper designated by the court and published in the county where such lands are situated, that they will, on a day specified in said notice, apply to the said district court for an order confirming the said report, and on the day so appointed, the said court, upon being furnished with proof of the due publication of said notice, as above provided, shall hear the matter, and shall make such order in the premises as may be just, and in case it confirm said report, it shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal and a description of the real estate appraised, for which compensation is to be made, and shall also direct to whom the money is to be paid.

Certified copy of order to be recorded.

SEC. 8. A certified copy of the order so to be made, as aforesaid, shall be recorded in the office of the secretary of state and also in the office of the register of deeds of said Hennepin county.

Right of appeal.

SEC. 9. Within twenty (20) days after the confirmation of the report of the appraisers, as provided for in the seventh (7th) section of this act, any party interested in any of said lands may appeal by notice in writing to the supreme court, from the appraisal and the report of the appraisers. Such appeal shall be heard by the supreme court on ten (10) days' notice thereof being given to either party by the other, according to the rules and practice of the court. On the hearing of such appeal the court may direct a new appraisal before the same or new appraisers at his discretion. The second report shall be final and conclusive on all the parties interested; *Provided, however,* That the state shall not take possession of the said appraised premises until the amount awarded for the same shall have been duly appropriated by act of the legislature of this state for this purpose and the money tendered or paid the owners thereof, or paid into the court, as provided in section ten (10) of this act.

When state may take possession.

SEC. 10. If there should be diverse and conflicting claimants to the money or any part of it to be paid as compen-

sation for the real estate taken for the purpose aforesaid, the court may direct the moneys paid into the court, and may determine who is entitled to the same, and direct to whom the same shall be paid, and may, in its discretion, order a reference to ascertain the facts upon which said determination and order are to be made.

Court to determine who is entitled to the proceeds.

SEC. 11. Said court shall have power at any time to amend any defect or informality in any of the proceedings to acquire title to the said land as may be necessary, and also to appoint other appraisers in place of any who may die, or refuse, or neglect to serve, or be incapable of serving, upon like notice as required by section four (4) of this act, in like cases of neglect or refusal to serve.

Defect in title, how rectified.

SEC. 12. If at any time after an attempt to acquire title by compensation as aforesaid, it shall be found that the title attempted to be acquired is defective, said board of commissioners shall proceed anew to acquire or perfect such title in the manner hereinbefore set forth, and as if no appraisement had been made, or may apply to said court to otherwise perfect said title.

How to proceed in case of defective title.

SEC. 13. After the proceedings herein provided for the purpose of acquiring title by the state to the said lands shall have been concluded, the said board of commissioners shall report such proceedings and all other action by them taken, together with the amounts awarded by the appraisers to the legislature of this state.

When commissioners report to the legislature.

SEC. 14. It is further provided that in case the legislature shall fail to make any appropriation to pay the owners of the land which may be selected and located by said commissioners pursuant to the provisions hereof, at the session thereof next succeeding that to which their report shall have been submitted, all the proceedings which may have been taken for the acquiring of the said land shall be void and of no effect; but in such case the parties whose lands have been condemned in pursuance of the provisions of this act shall be paid the reasonable disbursements expended by them in such proceedings, the amount of such disbursements to be fixed and allowed by the said district court, and to be paid out of any moneys in the treasury not otherwise appropriated.

When proceedings to be void and of no effect.

SEC. 15. The sum of one thousand (1,000) dollars, or so much thereof as shall be necessary, payable out of any money in the treasury not otherwise appropriated, is hereby appropriated to carry out the provisions of this act, and the same shall be paid to the said commissioners upon their requisition.

Amount appropriated to meet expenses.

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

When act to take effect.

Approved March 9, 1885.