

## CHAPTER 168.

[H. F. No. 1,289.]

AN ACT TO PROVIDE FOR THE DRAINING OF LANDS IN ANY TOWN IN THIS STATE, BY OWNERS OF LANDS WHEN THE SAME CANNOT BE DONE WITHOUT AFFECTING THE LANDS OF OTHERS, AND TO REPEAL CHAPTER NINETY-NINE (99) OF THE GENERAL LAWS OF A. D., EIGHTEEN HUNDRED AND EIGHTY-SEVEN (1887).

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

SECTION 1. That the supervisors of any town in this state, are hereby authorized to lay out or establish any ditch or drain within the limits of such town for the purpose of drainage, when the same shall be petitioned for by any number of legal voters who own real estate or who occupy real estate under the homestead pre-emption laws of the United States or under contract from the state of Minnesota, when the same cannot be done without affecting the lands of others.

Supervisors authorized to lay out drain or ditch.

SEC. 2. Whenever any number of legal voters, as aforesaid, determine to petition the supervisors for laying out or constructions of a ditch they shall cause a copy of their petition to be posted up in three (3) of the most public places of the town twenty (20) days before any action is had in relation thereto. Such petition shall describe as near as possible the course of such ditch and shall give as near as possible the points where such ditch shall begin and where the same shall terminate, and a description of the lands through which such ditch shall be proposed to be constructed.

Copy of petition to be posted.

SEC. 3. Upon receiving such petition the supervisors shall, within thirty (30) days, make out a notice and fix therein a time and place at which they will meet and decide upon such petition, and shall, at least ten (10) days previous to such time, cause such notice to be given to all occupants of the land through which such ditch is proposed to be constructed, which notice shall be served personally or by copy left at the usual place of abode of each of said occupants, proof of such service to be made by an affidavit of the supervisors making such notice.

Notice to be given occupants.

SEC. 4. The supervisors, at the time and place fixed in said notice, shall proceed to examine personally the territory affected by said proposed ditch and shall hear any reasons for or against the laying out or constructing of the same and shall decide upon the application as they deem proper. If they decide in favor of laying out or constructing such ditch they shall make out or cause to be made out an accurate description thereof and incorporate the same in an order to be signed by them, and shall cause such order

Supervisors shall examine personally territory affected.

together with all the petitions and affidavits of the service of notice to be filed in the office of the town clerk, who shall note the time of filing the same, and, on a refusal of the supervisors to lay out and construct such ditch, they shall note the fact on the back of the petition and file the same as aforesaid. All orders, petitions and affidavits together with the award of damages shall be made out and filed within five (5) days after the date of the order for laying out or constructing such ditch, but the town clerk shall not record such order within thirty (30) days nor until final decision is had, and not then unless such order is confirmed; and in case the supervisor shall fail to file such order within twenty (20) days, they shall be deemed to have decided against such petition.

Order or copy of record duly verified prima facie evidence.

SEC. 5. An order laying out or directing the construction of such ditch and a copy of the record duly verified by the town clerk shall be received in all courts as competent evidence of the facts therein contained, and shall be prima facie evidence of the regularity of the proceedings prior to the making of such order, except in case of appeal when an appeal has been taken within the time limited by this act.

Damages, how ascertained and settled.

SEC. 6. The damages sustained by reason of laying out or construction of such ditch may be ascertained by the agreement of the owners and supervisors and unless such agreement is made and the owners shall in writing release all claims to damages the same shall be assessed in the manner hereinafter prescribed before the same is opened or used. Every agreement of the owners shall be filed in the town clerk's office and shall forever preclude the owners of lands from all further claim for damages, not only for the taking of land in the construction of such ditch, but also shall preclude the owner from any claim for damages by the use of such ditch. In case the supervisors and the owners of land claiming damages cannot agree and if the owner of any land through which any such ditch shall be laid out or constructed is unknown, the supervisors shall, in their award, specify the amount of damages awarded by them to all such owner or owners giving a perfect description of such parcel of land in their award. The supervisors shall assess the damages at what they deem just and right with each individual with whom they cannot agree and deposit a statement of the amount of damages so assessed to each individual with the town clerk who shall note the time of filing the same. The supervisors in all cases of assessing damages shall estimate the damages and benefits which such ditch and the construction thereof will confer on the claimants for the same as well as the disadvantages. Any person living on United States land who has made his declaratory statement for the same in the proper land office shall, for the purpose of this act, be considered the owner of such land.

SEC. 7. The several acts and provisions of the general

statutes of one thousand eight hundred and seventy-eight (1878), and the acts amendatory thereto relating to appeals from the award of damages in the laying out of highways, shall be applicable to an appeal from award of damages in laying out or constructing ditches under the provisions of this act, and such appeals shall be conducted under the provisions of said laws.

Provisions of general statutes in cases of appeal.

SEC. 8. Whenever the supervisors shall have laid out, or authorized the construction of said ditch or drain in conformity with the provisions of this act, the parties petitioning therefor shall have full power to construct such ditch or drain, provided, however, that before they shall enter upon the lands of others to open such ditch or drain the petitioners shall pay or cause to be paid such sums of money as may have been assessed by the supervisors as damages to the owners thereof.

Damages to be paid before construction of ditch.

SEC. 9. That chapter ninety-nine (99) of the general laws of one thousand eight hundred and eighty-seven (1887), be and is hereby repealed.

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

When act to take effect.

Approved April 24, 1889.

## CHAPTER 169.

[H. F. No. 678.]

AN ACT TO DETACH CERTAIN TERRITORY FROM SHERBURNE COUNTY AND TO ATTACH THE SAME TO STEARNS COUNTY, AND TO CHANGE THE LINE BETWEEN SAID COUNTIES.

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

SECTION 1. That sections one (1) and twelve (12) of township thirty-five (35), range thirty-one (31), and sections six (6) and seven (7) of township thirty-five (35), range thirty (30), all in the county of Sherburne, Minnesota, be and the same hereby are detached from said Sherburne county and attached to the county of Stearns, for all purposes whatsoever, and that the county line between said counties be and the same is hereby changed accordingly.

Change of boundary line between Sherburne and Stearns counties.

SEC. 2. That the adoption of the proposition to change said county line shall be submitted to a vote of the people of said Stearns and Sherburne counties, at the next general election, notice of which shall be given at the time of giving notice of the next general election by the officers required by law; but no failure to give or irregularity in

Shall be submitted to vote of people.