

and costs, or by imprisonment not to exceed ninety (90) days.

*Labeled.* *Provided*, that the provisions of this act shall not apply when each barrel, cask, keg, or other package containing the said amber cane or sorghum syrup, that may be mixed or adulterated with any substance not natural or normal to said amber cane or sorghum syrup, shall be labeled with a label printed in the English language in plain bold-faced type at least one-half ( $\frac{1}{2}$ ) inch in length the following formula: "This amber cane or sorghum syrup is mixed with the following substances and none other: (Here give the name and proportionate quantity of each substance), and following this the name and address of the manufacturer of the mixture."

*Dairy and food commissioner.*

SEC. 2. It shall be the duty of the state dairy and food commissioner and his assistants, experts, chemists and agents by him appointed, to enforce the provisions of this act.

*Fines placed to credit of dairy and food commissioner's fund.*

SEC. 3. In all prosecutions under this act the costs thereof shall be paid in the manner now provided by law, and such fines shall be paid into the state treasury and placed to the credit of the state dairy and food commissioner's fund.

SEC. 4. This act shall take effect and be in force from and after October 1st, 1903.

Approved April 14, 1903.

S. F. No. 402.

## CHAPTER 188.

*Drainage.*

*An act to reimburse owners of land damaged by ditches or drains constructed under the provisions of chapter two hundred and fifty-eight (258) of the General Laws of nineteen hundred and one (1901).*

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

*Damages subsequent to construction.*

SECTION 1. That whenever any land adjacent to any ditch or drain constructed under the provisions of chapter two hundred fifty-eight (258) of the General Laws of 1901 has been damaged subsequent to the construction of such ditch or drain by reason of a part of the soil being carried away by water flowing through said ditch or drain, or by the deposit of earth or any other foreign substance (snow and ice excepted) on said land, and

which damage was not considered and included in the award of the viewers appointed in the proceedings to construct such ditch or drain, the owner of the land so damaged may, at any time within six years after the completion of the ditch or drain causing such damage petition the board of county commissioners of the county where the land claimed to be damaged is situated, for the appointment of viewers to ascertain and report the amount of such damages, such petition shall state the description of the land alleged to have been damaged, the amount of damage claimed, the location of the ditch or drain, the description of the land found in the proceedings to construct said ditch or drain to have been benefited by its construction, and the names of the owners of the land benefitted, as shown by the last assessment roll.

Within six years petition for appointment of viewers.

Upon the filing of the petition and a bond in the sum of one hundred dollars, conditioned that if it finally be determined that no damages have been sustained that are properly allowable under section one of this act, the petitioner will pay all the expense of the proceedings had under the petition, it shall be the duty of the board of county commissioners at their next regular or special meeting to appoint three persons who are qualified under the provisions of section five (5) of chapter two hundred fifty-eight of the General Laws of 1901, viewers, selecting if practicable the same persons as acted as viewers in the proceedings to construct the drain or ditch causing the damage, and the board of county commissioners shall fix the time and place for the first meeting of the viewers, which shall be not more than twenty (20) days from the date of their appointment. In case any of the viewers so appointed shall fail for any cause to qualify, the county auditor shall designate some proper person to take his place. Each of said viewers before entering upon the duties of his office shall take and subscribe an oath that he will faithfully perform his duty as viewer and file the same in the office of the county auditor.

Bond.

Board of county commissioners shall appoint viewers.

Upon the appointment of the viewers the county auditor shall give notice to parties interested, and whose lands are liable to be assessed for the payment of the damages claimed, by one publication at least one week before the first meeting of the viewers in the newspaper in which the last delinquent real estate tax list was published, if that paper is still published in the county, and, if not, in

Notice to be given interested parties by publication.

some legal newspaper printed and published in the county, and if there is none, in some newspaper published at the state capital, stating the date and first meeting of the viewers, and that any party interested may appear at that meeting and at such other time and place as the viewers may fix, and be heard in relation to the damages and such other matters as the viewers are authorized to hear and determine, and proof of the publication of said notice shall be filed in the office of the county auditor prior to the first meeting of the viewers.

Viewers to meet, time, place, and hearing.

SEC. 2. The viewers shall meet at the time and place named by the board of county commissioners for their first meeting and hear such evidence as shall be offered by the petitioner or any interested party, and for that purpose they may adjourn their hearing from time to time and to such places in the county as they may deem proper, and they shall make a personal examination of the damaged premises and inquire into the cause and amount of damage, and if they find that any damage contemplated by section one (1) of this act has been done the land described in the petition, they shall make an award in writing, stating the cause and amount of damage and file said award in the office of the county auditor, and the county auditor shall, after the time to appeal has expired as hereinafter provided, if no appeal is taken, issue an order on the county treasurer for the amount of such award in favor of the party entitled thereto, and the amount so paid, together with the fees and expenses of the viewers, shall be assessed against the land that was found in the proceeding to construct the ditch in question to have been benefited in the proportion and manner provided by chapter two hundred fifty-eight (258) of the General Laws of 1901 for the assessment of benefits.

Award, and expenses assessed against land benefited.

In case no damage sustained, petitioners to pay expenses.

If the viewers find that no damages have been sustained that are properly allowable under the provisions of this act they shall so report, and the expenses of the proceeding shall be paid by the petitioner, and on his failure to pay the county may maintain an action on the bond hereinbefore provided for.

Viewers to receive \$3 per day and expenses.

Each of the viewers shall receive three dollars (\$3.00) per day for each day actually and necessarily spent in the performance of his duty as viewer, not exceeding 5 days, together with his actual necessary expenses, an itemized account thereof to be filed with and audited and

allowed by the county auditor, and paid by the county treasurer on the order of the county auditor.

SEC. 3. Either the board of county commissioners, the petitioners or any party whose lands are liable to assessment for the damages awarded, if they feel aggrieved, may within thirty (30) days after the filing of the viewers' award appeal to the district court of the county in which the proceedings are had by serving on the parties who have appeared in the proceedings before the viewers and filing with the county auditor a notice of appeal, stating that an appeal is taken to the district court from the award of the viewers, and filing with the auditor a bond in the sum of five hundred dollars (\$500), with sufficient sureties to be approved by him, conditioned if the award and decision of the viewers is sustained the appellant will pay the cost of the appeal and abide and satisfy any judgment the court may render against him in the premises.

Appeal to district court.

Bond.

Before the taking of the appeal the auditor shall forthwith file with the clerk of the district court the original petition, the award and bond on appeal, and thereupon there shall be pending in the district court a civil action to determine whether any damage has been done the land described in the petition, that come within the provision of the first section of this act and the amount of such damages, and said action shall be tried in the manner provided for the trial of civil actions.

Petition to be filed with clerk of court, on appeal.

Any party may appeal from the judgment or any appealable order of the district court to the supreme court in the same manner as appeals in civil actions are taken. The final judgment in the action, if in favor of the petitioner, shall be certified to the county auditor, and assessed in the manner provided in section two (2) of this act for the assessment of the award of the viewers.

Appeal to supreme court.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved April 14, 1903.