

SEC. 5. This act shall take effect and be in force from and after May 1st, 1905.

Approved March 15, 1905.

CHAPTER 43.

S. F. No. 318.

An act to amend section 4086 and section 4089 of title 7 of chapter 38 of the General Statutes of 1894 relating to condemnation of land for the use of the state.

Condemnation of land.

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

SECTION 1. That section 4086 of title 7 of chapter 38 of the General Statutes of 1894 be and the same is hereby amended so that said section shall read as follows:

Section 4086. The attorney general may, on behalf of the state, and for the use of any institution requiring for its uses such lands, give notice of his intention to apply for the appointment of three commissioners to appraise said real estate, and the damage for taking the same, to the district court in and for the county where such lands shall be situated, or to a judge of said court, giving a general description of the lands to be appraised or taken, and specifying the time and place of such application; which notice shall be served at least ten days before the time of such application upon all persons named in the petition as owners, and upon all occupants of such land, in the same manner as a summons in a civil action, in said court; *provided*, that if such owner be not a resident of the state or his place of residence be unknown to the attorney general, upon the filing of an affidavit by the attorney general stating that he believes that such owner is not a resident of the state and that he has mailed a copy of the notice to his place of residence, or that after diligent inquiry his place of residence cannot be ascertained by the affiant, then service may be made upon such owner by three weeks' published notice in any newspaper published in the county in which the land is situate. At the time and place named in said notice, the attorney general, for and on behalf of the state, may present an application to said district court or to a judge thereof, setting forth the name of the institution requiring said lands, and the general purposes for which the same are desired to be taken and particularly describing

Attorney General may act.

Publication of notice.

said lands, for the appointment of such commissioners, and thereupon the court, or judge thereof, may proceed to appoint three commissioners, who shall have cognizance of all cases named in such application, and shall have power to appraise the value of all such land, and the damages for the taking of the same; and said commissioners, before entering upon the duties of their office, shall severally take and subscribe an oath to the effect that they will faithfully perform their duty as such appraisers, without partiality, and to the best of their knowledge and ability, which oath shall be filed in the office of the clerk of the district court of the county in which the lands to be appraised shall be situate; and thereupon such commissioners shall proceed to examine the premises, in each lot or parcel of land separately, having given such notice as they may deem reasonable to the owner, owners or persons interested in said lands, and to the guardian of any minor or insane person, which notice shall be in writing, and shall be served on such owner, interested person or guardian, if such person shall be a resident of the county where such lands are situate; and if such person or persons shall not reside in said county, then by publishing such notice in such newspaper as such commissioners may select, and for such time as they may choose; and at the time and place named in notice, the commissioners shall proceed, or a majority of them shall proceed, in each case or parcel of land, to an appraisal thereof, and of the damages sustained by reason of the taking and use of such land, and shall make award in writing of such damages and shall deliver one copy of such award, signed by the commissioners, or a majority of them, to the clerk of the district court in and for such county, to be by him filed in his office, and shall deliver another copy of such award to the attorney general, to be by him filed in his office. Upon the filing of such award it is hereby made the duty of the proper officers of said state to pay to the said parties in interest the amount thereof and in the event of appeal from such award, to pay to the said parties in interest the full amount of the final judgment that shall be rendered in said proceedings; *provided, however*, that upon the filing of said award of such commissioners with the said clerk of the district court of the county in which said premises are situate, the state, by its proper officers, may thereafter enter upon and take full and absolute pos-

Notice of
award.

Filing
of award.

session of said property and appropriate the same to the use and purposes named in the application. The duty of the state officials to pay the amount of such award and final judgment to said parties in interest shall for all purposes be held and construed to be full and just compensation to the respective owners or the persons interested in the lands so acquired by such condemnation proceedings. In the event that no specific moneys are set apart in the state treasury for the payment of such award or said final judgment, it shall be and hereby is made the duty of the state treasurer to honor the requisition of the proper officials for the payment of said amount at the time of the entry of the final judgment in such proceedings.

SEC. 2. That section 4089 of said title 7 of said chapter 38 be and the same is hereby amended so that the same shall read as follows:

Section 4089. The award or the judgment rendered in case of appeal, shall be and remain a claim against the state, and shall be paid out of any money in the treasury not otherwise appropriated or pursuant to a special appropriation therefor, and in all cases such award if not appealed from, or the judgment rendered therein in case of appeal, shall be and the same is hereby declared sufficient security for value and damage by reason of taking such property for public use within the true meaning and intent of the constitution, and in the event of appeal from such award, the provision herein made for payment of the final judgment to be rendered in said action shall be taken and construed as full and just compensation to such owners of said lands.

Claim
against
state.

SEC. 3. All acts or parts of acts inconsistent with this act are hereby repealed.

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

Approved March 15, 1905.