

CHAPTER 430

LAND FOR STREETS AND PARKS
(ELWELL LAW)**430.01 DESIGNATION OF LAND FOR SYSTEM OF STREETS, PARKS,
AND PARKWAYS.**

HISTORY. 1911 c. 185 s. 1; G.S. 1913 s. 1566; 1917 c. 103 s. 2; G.S. 1923 s. 1552; M.S. 1927 s. 1552; 1945 c. 470 s. 2.

In a proceeding to widen and grade a street, under the city charter of Minneapolis, which embodies Laws 1911, Chapter 185, as amended by Laws 1913, Chapter 345, it is proper and legal to offset damages for lands appropriated against the special benefits to the land not taken of the same tract. *C. R. I. & P. Ry. Co. v City of Minneapolis*, 164 M 226, 204 NW 934, 205 NW 640.

An owner whose property was taken in condemnation proceedings by the city of Minneapolis, jurisdiction being acquired, cannot recover damages for the taking, the damages and benefits being offset, though not separately stated. Such a taking is not without due process. *McKeen v City of Minneapolis*, 170 M 124, 212 NW 202.

The provisions as to notice to the owners of property proposed to be taken or interfered with constitute due process of law. It is not necessary that the statute require the names of the owners to be stated on the plat or in the notice. The fact that no compensation in excess of benefits to land not taken was awarded for the property of plaintiff taken in the proceedings is not sufficient to show there was not due process of law in that plaintiff was deprived of its property without just compensation, or that there was a violation of the constitutional provision that private property shall not be taken for public use without just compensation. *G. N. Ry. Co. v City of Minneapolis*, 136 M 1, 161 NW 231; 142 M 308, 172 NW 135.

The city charter of Minneapolis gives to the council power to reject plats of land within the city limits, and the council has no power to require, as a condition of its approval of a plat, that all streets and alleys indicated on the plat shall be graded, since this imposes the burden of street grading in a manner contrary to the provisions of the charter. *State ex rel v City Council*, 140 M 433, 168 NW 188.

Under Laws 1911, Chapter 195, as amended, curbs and gutters along the side of a street upon which a park borders may be included in a special assessment for benefits resulting from the improvement of the park, and the concurrence of the city council in the resolution of the park board authorizing the improvement is not necessary. *In re Improvement of Lake of the Isles Park*, 152 M 39, 188 NW 59.

Laws 1911, Chapter 185, as amended, became a part of the Minneapolis home rule charter merely by reference to it. *Freding v City of Minneapolis*, 177 M 122, 224 NW 845.

Section 117.16, which creates a cause of action in favor of a landowner for his expenses incurred in a condemnation proceeding under chapter 117, does not apply to expenses incurred under the provisions of this chapter. *Barmel v Minneapolis-St. Paul Sanitary District*, 201 M 622, 277 NW 208.

430.02 PROCEEDINGS FOR ACQUISITION OF LANDS.

HISTORY. 1911 c. 185 s. 2; 1913 c. 345 s. 1; G.S. 1913 s. 1567; G.S. 1923 s. 1553; 1925 c. 417 s. 1; M.S. 1927 s. 1553; 1929 c. 419 s. 1; M. Supp. s. 1553; 1945 c. 470 s. 3; 1945 c. 530 s. 1.

In a proceeding to widen and grade a street, under the city charter of Minneapolis, which embodies Laws 1911, Chapter 185, as amended by Laws 1913, Chap-

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ter 345, it is proper and legal to offset damages for land appropriated against the special benefits to the land not taken of the same tract. *C.R.I. & P. Ry. Co. v City of Minneapolis*, 164 M 226, 204 NW 934, 205 NW 640.

The amount of net award for compensation and damages incident to an improvement are to be added to the actual costs of doing the construction work, including incidental expense, in order to determine whether the total advancement exceeds the costs of the improvements. In re *Widening Twenty-eighth Street*, Minneapolis, 172 M 454, 216 NW 222.

Although property devoted to railroad use may not be benefited for that purpose, it may be enhanced in market value by a public improvement for which it is assessed notwithstanding it is more valuable for railroad purposes than for other purposes. *Board of Park Commissioners v Bremner*, 190 M 534, 252 NW 451, 253 NW 761.

The application of the "unit rule" did not interfere with the exercise of independent judgment by the commissioners. *Board of Park Commissioners v Bremner*, 190 M 534, 252 NW 451, 253 NW 761.

The fact that commissioners appointed to reassess benefits on land to be acquired and improved for park purposes arrive at identical figures assessed by a board of commissioners formerly appointed for that purpose is not fatal. *Board of Park Commissioners v Bremner*, 190 M 534, 252 NW 451, 253 NW 561.

Where a city erected a bridge which had the effect of changing the grade of the central part of a street which abutted plaintiff's property and devoted the bridge exclusively to street car traffic, the street railway company was not liable to plaintiff merely because it contributed to the cost of the bridge or because the city excluded other traffic. *Bruer v City of Minneapolis*, 201 M 40, 275 NW 368.

The fact that property being acquired by the government cannot be assessed does not affect the validity of assessments of benefits against other property owners. OAG March 17, 1931.

The state has no power to assess land belonging to the United States for benefits arising from local improvements, but land that is in the process of being acquired by the federal government may be assessed subject to the condition of the title at the time the council is called upon to confirm the assessment. OAG March 17, 1931.

430.023 WHEN NOTICES MAILED IN CONDEMNATION PROCEEDINGS.

HISTORY. 1943 c. 249 s. 1.

430.03 OBJECTIONS TO CONFIRMATION; APPEAL TO DISTRICT COURT; REAPPRAISAL; APPEAL TO SUPREME COURT.

HISTORY. 1911 c. 185 s. 3; 1913 c. 345 s. 2; G.S. 1913 s. 1568; G.S. 1923 s. 1554; 1925 c. 417 s. 2; M.S. 1927 s. 1554.

A property owner has no right of appeal to the district court unless he files objections as required by statute. *State ex rel v Boucher*, 171 M 297, 214 NW 30.

The district court not having acquired jurisdiction of the appeal by reason of the failure of the property owner to file objections as required by statute it had no authority to consider the question whether the city acquired jurisdiction in a condemnation proceeding. *State ex rel v Hanson*, 171 M 300, 214 NW 32.

The commissioners need not make a specific award to each person interested in the property since the court, retaining jurisdiction, may by proper notice and procedure have a determination made of the portion of the whole amount of damages so awarded to which each of the owners of individual interests is entitled. *Peterson v City of Minneapolis*, 175 M 300, 221 NW 14.

430.04 AWARDS; HOW PAID; ASSESSMENTS.

HISTORY. 1911 c. 185 s. 3a; 1915 c. 86 s. 1; G.S. 1923 s. 1555; 1925 c. 417 s. 3; M.S. 1927 s. 1555.

A city may, under certain circumstances, be called upon to pay more than one-third of the cost of a park. OAG March 17, 1931.

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430.05 RIGHT OF COUNCIL TO ABANDON; EFFECT OF AWARD; PAYMENT.

HISTORY. 1911 c. 185 s. 4; G.S. 1913 s. 1569; G.S. 1923 s. 1556; M.S. 1927 s. 1556.

NOTE: See annotations under section 430.03.

430.06 SPREADING OF ASSESSMENT INSTALMENTS.

HISTORY. 1911 c. 185 s. 5; 1913 c. 345 s. 4; G.S. 1913 s. 1570; 1917 c. 103 s. 3; G.S. 1923 s. 1557; M.S. 1927 s. 1557; 1929 c. 419 s. 2; M. Supp. s. 1557; 1945 c. 470 s. 1.

430.07 METHOD OF IMPROVEMENTS; ASSESSMENTS.

HISTORY. 1911 c. 185 s. 6; 1913 c. 345 s. 3; G.S. 1913 s. 1571; 1917 c. 103 s. 4; 1923 c. 438 s. 1; G.S. 1923 s. 1558; 1925 c. 417 s. 4; M.S. 1927 s. 1558.

NOTE: See annotations under sections 430.02 and 430.03.

The owner of a tract of land agreed to convey a portion of the tract to the city, to be used for public pleasure drives, parkways, and boulevards, and to be laid out, graded, and embellished according to certain plans. The contract provided that the remainder of the tract should not be subject to future assessments "for any part of the expense of such improvement or the maintenance thereof." Under the rule of strict construction applicable to such contracts the exemption did not extend to a special assessment for paving a boulevard after it had been laid out, graded, and put in condition for public use. *McCullough v Board of Park Commissioners*, 157 M 278, 195 NW 1013.

The six-year statute of limitations applies to an action to recover damages for an injury to real property caused by a municipality in grading a street. *Forsythe v City of South St. Paul*, 177 M 565, 225 NW 816.

Where the injury is continuing, the owner may recover such damages as were caused within six years prior to the suit. *Forsythe v City of South St. Paul*, 177 M 565, 225 NW 816.

430.08 ASSESSMENTS IN FIVE INSTALMENTS.

HISTORY. 1917 c. 103 s. 3; 1919 c. 219; G.S. 1923 s. 1559; M.S. 1927 s. 1559.

430.09 TITLE ACQUIRED.

HISTORY. 1911 c. 185 s. 7; G.S. 1913 s. 1572; G.S. 1923 s. 1560; M.S. 1927 s. 1560; 1945 c. 470 s. 5.

430.10 STREETS, PARKS, AND PARKWAYS, HOW GOVERNED.

HISTORY. 1911 c. 185 s. 8; G.S. 1913 s. 1573; G.S. 1923 s. 1561; M.S. 1927 s. 1561; 1945 c. 470 s. 6.

430.11 IMPROVEMENTS, WHEN AND HOW MADE.

HISTORY. 1911 c. 185 s. 9; G.S. 1913 s. 1574; G.S. 1923 s. 1562; M.S. 1927 s. 1562.

430.12 BONDS FOR IMPROVEMENTS.

HISTORY. 1911 c. 185 s. 10; 1913 c. 345 s. 5; G.S. 1913 s. 1575; 1917 c. 11 s. 1; G.S. 1923 s. 1563; 1925 c. 417 s. 5; M.S. 1927 s. 1563.

NOTE: See annotations under section 430.03.

430.13 SCOPE.

HISTORY. 1911 c. 185 s. -11; 1913 c. 345 s. 6; G.S. 1913 s. 1576; 1923 c. 438 s. 2; G.S. 1923 s. 1564; M.S. 1927 s. 1564; 1945 c. 530 s. 2.

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. 430.14 POWERS ADDITIONAL.

HISTORY. 1911 c. 185 s. 12; G.S. 1913 s. 1577; 1923 c. 438 s. 3; G.S. 1923 s. 1565; M.S. 1927 s. 1565.

430.15 PAYMENT BY CITY; GIFTS.

HISTORY. 1911 c. 185 s. 1; 1913 c. 345 s. 8; G.S. 1913 s. 1578; G.S. 1923 s. 1566; M.S. 1927 s. 1566.