

GENERAL STATUTES
OF THE
STATE OF MINNESOTA

36

IN FORCE

JANUARY 1. 1889.

COMPLETE IN TWO VOLUMES.

VOLUME 1, the General Statutes of 1878, prepared by GEORGE B. YOUNG, edited and published under the authority of chapter 67 of the Laws of 1878, and chapter 67 of the Laws of 1879.

VOLUME 2, Supplement.—Changes effected in the General Statutes of 1878 by the General Laws of 1879, 1881, 1881 Extra, 1883, 1885, and 1887, arranged by H. J. HORN, Esq., with Annotations by STUART RAPALJE, Esq., and others, and a General Index by the Editorial Staff of the NATIONAL REPORTER SYSTEM.

VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

ST. PAUL:
WEST PUBLISHING CO.
1888.

suant to the provisions of chapter one of the General Laws of the state of Minnesota for the year eighteen hundred and eighty-five be, and the same is, in all things legalized. (1887, c. 151.)

CHAPTER 124.

MISCELLANEOUS LAWS.*

[Gen. Laws 1879, c. 99, providing for the Farmers' Board of Trade, repealed 1885, c. 144, § 45. See *post*, *§ 20¹ *et seq.*]

*§ 1. Legal holiday—February 22.

A trial was commenced before, and proceeded with and closed on, Washington's birthday. Held, that it was for the trial court to determine at the time upon the necessity of continuing the trial on that day, and its action in that behalf was final. *State v. Sorenson*, 32 Minn. 118, 19 N. W. Rep. 738.

*§ 3. Bonds in lieu of recognizances.

Cited *Schoregge v. Gordon*, 29 Minn. 369, 13 N. W. Rep. 194. *Hayden v. Keith*, 32 Minn. 273, 20 N. W. Rep. 195.

The word "bond" is used in this section as a general term, including recognizances as well as common bonds, and on appeal from the probate to the district court under Gen. St. c. 49, § 15, an undertaking may be filed in lieu of a recognizance. In *re Brown*, 35 Minn. 307, 29 N. W. Rep. 131.

STORAGE AND TRANSPORTATION OF GRAIN.

See *State v. Loomis*, 27 Minn. 527, 8 N. W. Rep. 753; *Greenleaf v. Dows*, 8 Fed. Rep. 550; *National Ex. Bank v. Wilder*, 34 Minn. 149, 24 N. W. Rep. 699.

*§ 8. Erection of elevators adjoining railroads.

If a railroad company itself furnished at one of its stations suitable warehouse facilities for receiving, handling, storing and delivering, at the rates fixed by law, all grain designed for transportation over its road, it might designate such warehouse or elevator as the exclusive place at such station at which it would receive grain for shipment, and might refuse to receive it, or to furnish cars for its shipment, at any other place. *Rhodes v. Northern Pac. R. Co.*, 34 Minn. 87, 24 N. W. Rep. 347.

*§ 13. Grain in store a bailment.

*§§ 13-20, apply only to cases where there has been a delivery of grain by an actual depositor, and not to a case where a party issues to his creditor an instrument in the form of a warehouse receipt, for the purpose of pledging or mortgaging his own property in his own possession to secure his own debt. *Fishback v. Van Dusen*, 33 Minn. 112, 22 N. W. Rep. 244.

See *Leuthold v. Fairchild*, 35 Minn. 99, 27 N. W. Rep. 503; 28 N. W. Rep. 218; *Greenleaf v. Dows*, 8 Fed. Rep. 550.

*§ 15. Redelivery of grain.

A bailee may waive tender of charges and receipts; and where he places his refusal to deliver grain solely on the ground that it is claimed by a third party, he cannot subsequently change his position and justify on the ground of non-payment of charges. *Wallace v. Elevator Co.*, (Minn.) 35 N. W. Rep. 268.

See *Greenleaf v. Dows*, 8 Fed. Rep. 550.

*As to bonds, etc., with Fidelity companies as sureties, see *ante*, c. 34, *§ 445.

***§ 16. Same—Action.**

See *State v. Loomis*, 27 Minn. 521, 8 N. W. Rep. 758; *Greenleaf v. Dows*, 8 Fed. Rep. 550.

***§ 18. Sale by warehouseman prohibited.**

See *National Exchange Bank v. Wilder*, 34 Minn. 149, 157, 24 N. W. Rep. 699; *Greenleaf v. Dows*, 8 Fed. Rep. 550.

ELEVATORS, WAREHOUSES, AND INSPECTION, WEIGHING, AND HANDLING
GRAIN.*

***§ 20¹. Elevators declared public warehouses.**

All elevators or warehouses located at Minneapolis, St. Paul, and Duluth, in this state, in which grain is stored in bulk, and in which the grain of different owners is mixed together, or in which grain is stored in such a manner that the identity of different lots or parcels cannot be accurately preserved, and doing business for a compensation, are hereby declared to be public warehouses. (1885, c. 144, § 1.)

***§ 20². Public warehouseman—License—Revocation.**

The proprietor, lessee, or manager of any public warehouse shall be required, before transacting any business, to procure from the railroad and warehouse commissioners a license permitting such proprietor, lessee, or manager to transact business as a public warehouseman under the laws of this state, which license shall be issued by the railroad and warehouse commissioners upon written application, which shall set forth the location and name of such warehouse, and the individual name of each person interested as owner or principal in the management of the same, or, if the warehouse be owned or managed by a corporation, the name of the president, secretary, and treasurer of such corporation shall be stated, and the said license shall give authority to carry on and conduct the business of public warehouse, in accordance with the laws of the state, and shall be revocable by said commissioners upon a summary proceeding before the commissioners, upon complaint of any person in writing, setting forth the particular violation of law, and upon satisfactory proof, to be taken in such manner as may be directed by the commissioners. (*Id.* § 2.)

***§ 20³. Same—Bond—License fee.**

The person receiving a license as herein provided shall file with the commissioners granting the same a bond to the state of Minnesota, with good and sufficient sureties, to be approved by said commissioners, in the penal sum of not less than ten thousand dollars, nor more than fifty thousand dollars, in the discretion of the railroad and warehouse commissioners, for each warehouse licensed in the county, conditional, for the faithful performance of his duty as a public warehouseman, and his full and unreserved compliance with all laws of this state in relation thereto. A fee for the issuance of each license of two dollars shall be paid by the person applying for the same: *provided*, that when any person or corporation procures a license for more than one warehouse in any one county in the state, no more than one bond need be given. (*Id.* § 3.)

*Entitled "An act to regulate warehouses, inspection, weighing, and handling grain." Approved March 5, 1885. Took effect "after the expiration of 60 days after its passage." By § 45 "chapters 95 and 99 of the General Laws of 1879 are hereby repealed." The former act related to the grading and weighing of wheat, and the latter established the Farmers' Board of Trade. § 46 of the act of 1885 also provides that "all acts and parts of acts, general or special, conflicting with this act, are hereby repealed," and § 47 appropriated \$1,000 to carry out the provisions of the act.

***§ 20⁴. Transacting business without license—Penalty—Refusal to renew license, etc.**

Any person who shall transact the business of a public warehouseman without first procuring a license as herein provided, or who shall continue to transact any such business after such license has been revoked, (save only that he may be permitted to deliver property previously stored in such warehouse,) shall, on conviction by indictment, be fined a sum not less than one hundred dollars, nor more than five hundred dollars, for each and every day such business is carried on, and the railroad and warehouse commissioners may refuse to renew any license or grant a new one to any of the persons whose license has been revoked within one year from the time the same was revoked. (*Id.* § 4.)

***§ 20⁵. Storage and inspection of grain—Warehouseman's duties.**

It shall be the duty of every public warehouseman to receive for storage any grain, dry and in a suitable condition for warehousing, that may be tendered to him in the usual manner in which such warehouses are accustomed to receive the same in the ordinary and usual course of business, not making any discrimination between persons desiring to avail themselves of warehouse facilities. Such grain to be in all cases inspected and graded by a duly-authorized inspector, and to be stored with grain of a similar grade. And in no case shall grain of a different grade be mixed together while in store; but if the owner or consignee so requests, and the warehouseman consents thereto, his grain of the same grade may be kept in a bin by itself, apart from that of other owners, which bin shall thereupon be marked and known as a special bin. If a warehouse receipt be issued for grain so kept separate, it shall state on its face that it is in a special bin, and shall state the number of such bin; and all grain delivered from such warehouse shall be inspected on its delivery by a duly-authorized inspector of grain. Nothing in this section shall be construed so as to require the receipt of any kind of grain into any warehouse in which there is not sufficient room to accommodate or to store it properly, or in cases where such warehouse is necessarily closed. The charges for inspection, upon receipt and delivery, shall be paid by the warehouseman, and may be added to the charge of the storage. The chief inspector may recover such charges of the warehouseman by an appropriate action in his name. (*Id.* § 5.)

***§ 20⁶. Storage receipts.**

Upon application of the owner or consignee of grain stored in a public warehouse, the same being accompanied with evidence that all transportation or other charges, which may be a lien upon the grain, including charges for inspection and weighing, have been paid, the warehouseman shall issue to the person entitled to receive it a warehouse receipt therefor, subject to the order of the owner or consignee, which receipt shall bear date corresponding with the receipt of the grain in store, and shall state upon its face the quantity and inspected grade of the grain, and that the grain mentioned on it has been received into store, to be stored with grain of the same grade by inspection, and that it is deliverable upon the return of the receipt properly indorsed by the person to whose order it was issued, and the payment of proper charges for storage. All warehouse receipts for grain issued by the same warehouse shall be consecutively numbered, and no two receipts bearing the same number shall be issued from the same warehouse during any one year, except in case of a lost or destroyed receipt, in which case the new receipt shall bear the same date and number as the original, and shall be plainly marked on its face "duplicate." If the grain was received from railroad cars, the number of each car shall be stated upon the receipt, with the amount it contained; if from barges or other vessels, the name of such craft; if from team or by other means, the manner of its receipt shall be stated on its face. (*Id.* § 6.)

***§ 20⁷. Same—Regulations for issue—New receipts—Cancellation.**

Upon the delivery of grain from store upon any receipt, such receipt shall be plainly marked across its face the word "canceled," with the name of the person canceling the same, and shall thereafter be void, and shall not again be put in circulation, nor shall grain be delivered twice upon the same receipt. No warehouse receipt shall be issued except upon actual delivery of grain into store in the warehouse from which it purports to be issued, and which is to be represented by the receipts. Nor shall any receipt be issued for a greater quantity of grain than was contained in the lot or parcel stated to have been received. Nor shall more than one receipt be issued for the same lot of grain, except in cases where receipt for a part of a lot is desired, and then the aggregate receipt for a particular lot shall cover that lot, and no more. In cases where a part of the grain represented by the receipt is delivered out of store, and the remainder is left, a new receipt may be issued for such remainder, but the new receipt shall bear the same date as the original, and shall state on the face that it is balance of receipt of the original number, and the receipt upon which a part has been delivered shall be canceled in the same manner as if it had all been delivered. In case it be desirable to divide one receipt into two or more, or in case it be desirable to consolidate two or more receipts into one, and the warehouseman consents thereto, the original receipt shall be canceled the same as if the grain had been delivered from [the] store, and the new receipts shall express on their face that they are a part of another receipt or a consolidation of other receipts, as the case may be, and the numbers of the original receipts shall also appear upon the new ones issued as explanatory of the change, but no consolidation of receipts of dates differing more than ten days shall be permitted. And all new receipts issued for old ones canceled as herein provided, shall bear the same date as those originally issued, as near as may be. (1885, c. 144, § 7.)

***§ 20⁸. Same—Limitation of liability unlawful.**

No warehouseman in the state shall insert in any receipt issued by him any language in anywise limiting or modifying his liabilities or responsibility as imposed by the laws of this state. (*Id.* § 8.)

***§ 20⁹. Redelivery of grain.**

On the return of any warehouse receipt by him, properly indorsed, and the tender of all proper charges upon the property represented by it, such property shall be immediately delivered to the holder of such receipt, and it shall not be subject to any further charges for storage after demand for such delivery shall have been made, and the property represented by such receipt shall be delivered within twenty-four hours after such demand shall have been made, and the cars or vessels for the same shall have been furnished. The warehouseman in default shall be liable to the owner of such receipt for damages for such default in the sum of one cent per bushel, and in addition thereto one cent per bushel for each and every day of such neglect or refusal to deliver: *provided*, no warehouseman shall be held to be in default in delivering if the property is delivered in the order demanded, and as rapidly as due diligence, care, and prudence will justify. (*Id.* § 9.)

***§ 20¹⁰. Statement to warehouse commissioners.**

It shall be the duty of every owner, lessee, and manager of every public warehouse in this state to furnish in writing, under oath, at such times as the board of warehouse commissioners shall require and prescribe, a statement concerning the condition and management of the business as such warehouseman. (*Id.* § 10.)

***§ 20¹¹. Weekly and daily statements of storage, etc.**

The warehouseman of every public warehouse located at Minneapolis, St. Paul, and Duluth shall, on or before Tuesday morning of each week, cause to be made out, and shall keep posted up in the business office of his warehouse, in a conspicuous place, a statement of the amount of each kind and grade of grain in store in his warehouse at the close of business on the previous Saturday, and shall also on each Tuesday morning render a similar statement made under oath before some officer authorized by law to administer oaths, by one of the principal owners or operators thereof, or by the book-keeper thereof having personal knowledge of the facts, to the warehouse registrar, appointed as hereinafter provided. They shall also be required to furnish daily to the said registrar a correct statement of the amount of each kind and grade of grain received in store in such warehouse on the previous day, also the amount of each kind and grade of grain delivered or shipped by such warehouseman during the previous day, and what warehouse receipts have been canceled, upon which the grain has been delivered on such day, giving the number of each receipt, and amount, kind, and grade of grain received and shipped upon each; also how much grain, if any, was so delivered or shipped, and the kind and grade of it, for which warehouse receipts had not been issued, and when and how such unreceipted grain was received by them; the aggregate of such reported cancellations and delivery of unreceipted grain corresponding in amount, kind, and grade with the amount so reported delivered or shipped. They shall also at the same time report what receipts if any, have been canceled and new ones issued in their stead, as herein provided for; and the warehouseman making such statements shall in addition furnish the said registrar any further information regarding receipts issued or canceled that may be necessary to enable him to keep a full and correct record of all receipts issued and canceled, and of grain received and delivered. (*Id.* § 11.)

***§ 20¹². Registrar.**

It is hereby made the duty of the secretary of the railroad and warehouse commissioners to act as registrar, in accordance with the spirit and intent of section eleven of this act. (*Id.* § 12.)

***§ 20¹³. Schedule of rates—Maximum charges.**

Every warehouseman of public warehouses located at Minneapolis, St. Paul, and Duluth, shall be required during the first week in September of each year to publish in one or more of the newspapers (daily if there be such) published in the city or village in which such warehouse is situated, a table or schedule of rates for the storage of grain in his warehouse during the ensuing year, which rates shall not be increased during the year, and such published rates or any published reduction of them shall apply to all grain received into such warehouse from any person or source, and no discrimination as to rates shall be made directly or indirectly by such warehouseman for the storage of grain. The maximum charge for storage and handling of grain, including the cost of receiving and delivering, shall be for the first fifteen days or part thereof, one and one-half cents per bushel, and for each fifteen days or part thereof after the first fifteen days, one-half cent per bushel, and for continuous storage between the fifteenth day of November and the fifteenth day of May following, not more than four cents per bushel. (*Id.* § 13.)

***§ 20¹⁴. Storage — Duties of warehouseman — Damaged grain—Liability, notice, etc.**

It shall not be lawful for any public warehouseman to mix any grain of different grades together, or to select different qualities of the same grade for the purpose of storing or delivering the same. Nor shall he attempt to deliver grain of one grade for another, or in any way tamper with grain while

in his possession or custody, with a view of securing any profit to himself or any other person. And in no case, even of grain stored in a separate bin, shall he be permitted to mix grain of different grades together while in store. He may, however, on request of the owner of any grain stored in a private bin, be permitted to dry, clean, or otherwise improve the condition or value of any such lot of grain; but in such case it shall only be delivered as such separate lot, or as the grade it was originally inspected when received by him, without reference to the grade it may be as improved by such process of drying or cleaning. Nothing in this section, however, shall prevent any warehouseman from removing grain while within his warehouse for its preservation or safe-keeping. No public warehouseman shall be held responsible for any loss or damage to property by fire while in his custody, provided reasonable care and vigilance be exercised to protect and preserve the same, nor shall he be held liable for damage to grain by heating, if it can be shown that he has exercised proper care in handling and storing the same, and that such heat or damage was the result of causes beyond his control; and in order that no injustice may result to the holder of grain in any public warehouse of Minneapolis, St. Paul, and Duluth, it shall be deemed the duty of such warehouseman to dispose of by delivery or shipping, in the ordinary and legal manner of so delivering, that grain of any particular grade which was first received by them, or which has been for the longest time in store in his warehouse, and unless public notice has been given that some portion of the grain in his warehouse is out of condition, or becoming so, such warehouseman shall deliver grain of quality equal to that received by him, on all receipts as presented. In case, however, any warehouseman of Minneapolis, St. Paul, and Duluth, shall discover that any portion of the grain in his warehouse is out of condition, or becoming so, and it is not in his power to preserve the same, he shall immediately give public notice, by advertising in a daily newspaper in the city in which such warehouse is situated, and by posting a notice in the most public place (for such purpose) in such city, of its actual condition, as near as he can ascertain. It shall state in such notice the kind and grade of the grain, and the bins in which it is stored, and shall also state in such notice the receipts outstanding upon which such grain will be delivered, giving the numbers, amounts, and dates of each, which receipts shall be those of the oldest dates then in circulation or uncanceled, the grain represented by which has not previously been declared or receipted for as out of condition; or if the grain longest in store has not been receipted for, he shall so state, and shall give the name of the party for whom such grain was stored, the date it was received, and the amount of it; and the enumeration of receipts and identification of grain so discredited, shall embrace as near as may be as great a quantity of grain as is contained in such bins, and such grain shall be delivered upon the return and cancellation of the receipts, and the unreceipted grain upon the request of the owner or person in charge thereof. Nothing herein contained shall be held to relieve the said warehouseman from exercising proper care and vigilance in preserving such grain after such publication of its condition, but such grain shall be kept separate and apart from all direct contact with other grain, and shall not be mixed with other grain while in store in such warehouse. Any warehouseman guilty of any act or neglect the effect of which is to depreciate property stored in the warehouse under his control, shall be held responsible as at common law or upon the bond of such warehouseman, and in addition thereto the license of such warehouseman, if his warehouse be in Minneapolis, St. Paul, or Duluth, shall be revoked. Nothing in this section shall be so construed as to permit any warehouseman to deliver any grain stored in a special bin or by itself, as provided in this act, to any but the owner of the lot, whether the same be represented by a warehouse receipt or otherwise. In case the grain declared out of condition, as herein provided for, shall not be removed from store by the owner

thereof within two months from the date of the notice of its being out of condition, it shall be lawful for the warehouseman where the grain is stored to sell the same at public auction, for account of said owner, by giving ten days' public notice by advertisement in a newspaper (daily if there be such) published in the city or town where such warehouse is located. (1885, c. 144, § 14.)

***§ 20¹⁵. Examination by owners, etc.—Inspecting scales.**

All persons owning property, or who may be interested in the same in any public warehouse, and all duly-authorized inspectors of such property, shall at all times, during ordinary business hours, be at full liberty to examine any and all property stored in any public warehouse in this state, and all proper facilities shall be extended to such person by the warehouseman, his agents, and servants, for an examination, and all parts of the public warehouses shall be free for the inspection and examination of any person interested in property stored therein, or of any authorized inspector of such property. And all scales used for the weighing of property in public warehouses shall be subject to examination and test by any duly-authorized inspector, weighmaster, or sealer of weights and measures, at any time when required by any person or persons, agent or agents, whose property has been or is to be weighed on such scales. The expense of such test by an inspector or sealer to be paid by the warehouse proprietor if the scales are found incorrect, but not otherwise. Any warehouseman who may be guilty of continuing to use scales found to be in an imperfect or incorrect condition, by such examination and test, until the same shall have been pronounced correct and properly sealed, shall be liable to be proceeded against as hereinbefore provided. (*Id.* § 15.)

***§ 20¹⁶. Weighmaster and assistants.**

The railroad and warehouse commissioners shall appoint in all cities where there is state inspection of grain a state weighmaster, and such assistants as shall be necessary. (*Id.* § 16.)

***§ 20¹⁷. Same—Authority—Effect of certificate.**

Said state weighmaster and assistants shall, at the places aforesaid, supervise and have exclusive control of the weighing of grain and other property which may be subject to inspection; and the inspection of scales and the action and certificate of such weighmaster and assistants in the discharge of their aforesaid duties shall be conclusive upon all parties in interest. (*Id.* § 17.)

***§ 20¹⁸. Weighing fees.**

The board of railroad and warehouse commissioners shall fix the fees to be paid for the weighing of grain or other property, which fees shall be paid by the warehouseman, and may be added to the charges for storage. (*Id.* § 18.)

***§ 20¹⁹. Qualifications, bond, compensation of weighmaster, etc.**

Said state weighmaster and assistants shall not be a member of any board of trade or association of [any] like character. They shall give bonds in the sum of five thousand dollars, conditioned for the faithful discharge of their duties, and shall receive such compensation as the board of railroad and warehouse commissioners shall determine. (*Id.* § 19.)

***§ 20²⁰. Regulations for weighing grain.**

The railroad and warehouse commissioners shall adopt such rules and regulations for the weighing of grain and other property as they shall deem proper. (*Id.* § 20.)

***§ 20²¹. Refusing access to scales—Penalty.**

In case any person, warehouse or railroad corporation, or any of their agents

or employes, shall refuse or prevent the aforesaid state weighmaster or either of his assistants from having access to their scales in the regular performance of their duties in supervising the weighing of any grain or other property in accordance with the tenor and meaning of this act, they shall forfeit the sum of one hundred dollars for each offense, to be recovered in an action of debt before any justice of the peace, in the name of the state of Minnesota, such penalty or forfeiture to be paid to the state treasurer for the benefit of the grain inspection fund, and shall also be required to pay all costs of prosecution. (1885, c. 144, § 21.)

***§ 20²². Chief inspector—Appointment—Oath—Bond.**

It shall be the duty of the railroad and warehouse commissioners to appoint a suitable person as chief inspector of grain in the state of Minnesota, who shall hold his office for the term of two years, unless sooner removed by said railroad and warehouse commissioners, who shall, before entering upon the duties of his office, take an oath of office, as in case of other state officers, and shall execute a bond to the state of Minnesota in the penal sum of ten thousand dollars, with good and sufficient sureties, to be approved by the railroad and warehouse commissioners, conditioned that he will faithfully and impartially discharge the duties of the office of chief inspector according to law and the rules and regulations of said railroad and warehouse commissioners, and that he will pay all damages to any person or persons who may be injured by reason of his neglect or failure to comply with the law or the rules and regulations aforesaid. (*Id.* § 22.)

***§ 20²³. Same—Deputies.**

Said chief inspector shall appoint, subject to the approval of the railroad and warehouse commissioners, such number of deputy inspectors as may be required; one of which deputies in each of the cities of St. Paul and Minneapolis, and the village of Duluth, shall be denominated and styled "chief deputy." (*Id.* § 23.)

***§ 20²⁴. Deputy inspectors—Oath—Bond.**

Such deputy inspectors shall take a like oath of office to that required from the chief inspector, and shall give a bond to the state of Minnesota in the penal sum of five thousand dollars, with such good and sufficient securities as may be approved by the railroad and warehouse commissioners, and conditioned in like manner as the railroad and warehouse commissioners require from the chief inspector. (*Id.* § 24.)

***§ 20²⁵. Bonds of inspectors—Filing—Action.**

The bonds given by the chief inspector and the deputy inspectors shall be filed in the office of the secretary of state for the state of Minnesota, and suit may be brought upon said bond or bonds in any court having jurisdiction thereof, for the use of the person or persons so injured. (*Id.* § 25.)

***§ 20²⁶. Control and removal of deputies.**

The chief inspector shall have power to remove any of the deputy inspectors at pleasure, and said deputy inspectors shall act under the immediate control and supervision of said chief inspector. (*Id.* § 26.)

***§ 20²⁷. Regulations and charges for inspection—Compensation of inspectors.**

The chief inspector of grain and all deputy inspectors shall be governed in their inspection duties by such rules and regulations as may be provided by the railroad and warehouse commissioners; and the said commissioners shall have power to fix the rate of charges for inspection of grain, and the manner in which the same shall be collected, and which charges shall be regulated in

such manner as will in the judgment of said commissioners produce sufficient revenue to meet the necessary expenses of the inspection service, and no more. Said railroad and warehouse commissioners shall fix the amount of compensation to be paid to the chief inspector and deputy inspectors, and prescribe the time and manner of payment thereof; which compensation shall be paid out of the grain inspection fund, hereinafter created, on the order of the railroad and warehouse commissioners. (*Id.* § 27.)

***§ 20²⁸. Inspectors not to be interested.**

No chief inspector or deputy inspector of grain shall, during his term of service, be interested, directly or indirectly, in the handling, storing, shipping, purchasing, or selling of grain, nor shall he be in the employment of any person or corporation interested in the handling, storing, shipping, purchasing, or selling of grain. (*Id.* § 28.)

***§ 20²⁹. Removal of inspectors.**

Upon complaint in writing of any person to the railroad and warehouse commissioners, supported by reasonable and satisfactory proof, that the chief inspector or any of his deputies have violated any of the rules prescribed for his government, or has been guilty of any improper official act, or has been found inefficient or incompetent for the duties of his position, said person shall be by said railroad and warehouse commissioners immediately removed from office. (*Id.* § 29.)

***§ 20³⁰. Imposing as inspector—Penalty.**

Any person who shall assume to act as an inspector of grain, who has not first been so appointed and sworn, shall be held to be an imposter, and shall be punished by a fine of not less than fifty dollars, nor more than one hundred dollars, for each and every attempt to so inspect grain, to be recovered before a justice of the peace in an action of debt in the name of the state of Minnesota, for the use of any person choosing to sue. (*Id.* § 30.)

***§ 20³¹. Misconduct of inspectors—Penalty.**

Any duly-authorized inspector or deputy inspector of grain, who shall be guilty of any neglect of duty, or who shall knowingly or carelessly inspect or grade any grain improperly, or who shall accept any money, or other consideration, directly or indirectly, for any neglect of duty or any improper performance of duty as such inspector of grain, or any person who shall improperly influence any inspector of grain in the performance of his duty as such inspector, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred dollars, nor more than one thousand dollars, or shall be imprisoned in the county jail not less than thirty days nor more than one year, or both, in the discretion of the court. (*Id.* § 31.)

***§ 20³². Lien for inspection and weighing.**

The charge for the inspection and weighing of grain shall be and constitute a lien on grain so inspected, and whenever such grain is in transit the said charges shall be treated as advanced charges, to be paid by the common carrier in whose possession the same is at the time of inspection. (*Id.* § 32.)

***§ 20³³. Inspector's decision—Effect.**

The decision of the chief inspector or any of the deputy inspectors as to [the] grade of grain shall be final and binding on all parties, unless an appeal is taken from such decision as hereinafter provided. (*Id.* § 33.)

***§ 20³⁴. Same—Appeal.**

In case any owner, consignee, or shipper of grain, or any warehouse manager, shall be aggrieved by the decision of the chief inspector or any of his

deputies, an appeal may be had to the railroad and warehouse commissioners and a decision of a majority of such commissioners shall be final, and the railroad and warehouse commissioners are authorized to make all necessary rules governing such appeal: *provided*, that the party appealing shall pay to the chief inspector a sum not to exceed five dollars per case before said case be entertained, which sum shall be refunded in case such case is sustained. (1885, c. 144, § 34.)

***§ 20³⁵. Withholding grain from storage—Notice, etc.**

In case any owner or consignee of grain shall be dissatisfied with the inspection of any lot of grain, or shall from any cause desire to receive his property without its passing into store, he shall be at liberty to have the same withheld from going into any public warehouse (whether the property may have previously been consigned to such warehouse or not) by giving notice to the person or corporation in whose possession it may be at the time of giving such notice; and such grain shall be withheld from going into store, and be delivered to him subject only to such proper charges as may be a lien upon it prior to such notice,—the grain in railroad cars to be removed therefrom by such owner or consignee within twenty-four hours after such notice has been given to the railroad company having it in possession: *provided*, such railroad company place the same in a proper and convenient place for unloading; and any person or corporation refusing to allow such owner or consignee to receive his grain shall be deemed guilty of conversion, and shall be liable to pay such owner or consignee double the value of the property so converted. Notice that such grain is not to be delivered into store may also be given to the proprietor or manager of any warehouse into which it would otherwise have been delivered, and if, after such notice, it be taken into store in such warehouse, the proprietor or manager of such warehouse shall be liable to the owner of such grain for double its market value. (*Id.* § 35.)

***§ 20³⁶. Combinations for storage contrary to owner's direction.**

It shall be unlawful for any proprietor, lessee, or manager of any public warehouse to enter into any contract, agreement, understanding, or combination with any railroad company or other corporation, or with any individual or individuals, by which the property of any person is to be delivered to any public warehouse for storage or for any purpose, contrary to the direction of the owner, his agent or consignee. (*Id.* § 36.)

***§ 20³⁷. Minnesota grades.**

The railroad and warehouse commissioners shall, before the fifteenth day of September in each year, establish a grade for all kinds of grain bought or handled by any public warehouse in the state, which shall be known as "Minnesota grades," and the grades so established shall be published in some daily newspaper, in each of the three places of St. Paul, Minneapolis, and Duluth, each day, for the space of one week. (*Id.* § 37.)

***§ 20³⁸. Standard samples.**

It shall be the duty of the chief inspector of grain to furnish any elevator or warehouse in this state standard samples of grain as established by the official inspection, when requested so to do by the proprietor, lessee, or manager thereof, at the actual cost of such sample. (*Id.* § 38.)

***§ 20³⁹. General supervision by commissioners.**

It will be the duty of the railroad and warehouse commissioners to assume and exercise a constant supervision over the grain interests of this state, to supervise the handling, inspection, weighing, and storage of grain, to establish

all necessary rules and regulations for the weighing, grading, inspection, and appeal on inspection of grain, and for the management of the public warehouses of the state as far as such rules and regulations may be necessary to enforce the provisions of this act, or any law of this state in regard to the same, to investigate all complaints of fraud or oppression in the grain trade, and to correct the same so far as it may be in their power. (*Id.* § 39.)

***§ 20⁴⁰. Publication of rules, etc.**

The aforesaid rules and regulations not being contrary to the provisions of law, shall be published by said railroad and warehouse commissioners in a daily paper in St. Paul, Minneapolis, and Duluth, and shall be in force and effect until they shall be changed or abrogated by said commissioners in a like public manner. (*Id.* § 40.)

***§ 20⁴¹. Disposition of moneys collected.**

All moneys collected by state grain inspectors, weigh-masters, and other officers, as herein provided for, shall by them be paid into the state treasury. (*Id.* § 41.)

***§ 20⁴². Same.**

It shall be the duty of the treasurer of the state of Minnesota to receive all moneys aforesaid, and all fines and penalties collected by virtue of this act, and to keep a separate account of the same, and to pay the same on the order of the railroad and warehouse commissioners, and not otherwise. (*Id.* § 42.)

***§ 20⁴³. Attorney general and county attorney—Duties.**

The attorney general of the state of Minnesota shall be *ex officio* attorney for the railroad and warehouse commissioners, and shall give them such counsel and advice as they may from time to time require, and he shall institute and prosecute any and all suits which said railroad and warehouse commissioners may deem expedient and proper to institute, and he shall render to such railroad and warehouse commissioners all counsel, advice, and assistance necessary to carry out the provisions of this act, according to the true intent and meaning thereof. In all criminal prosecutions against a warehouseman for the violation of any of the provisions of this act it shall be the duty of the county attorney of the county in which such prosecution is brought to prosecute the same to a final issue. (*Id.* § 43.)

***§ 20⁴⁴. Right of sale by sample.**

Nothing in this act shall be so construed as to prevent any person from selling grain by sample, regardless of grade. (*Id.* § 44.)

***§ 20⁴⁵. Grain now in store—Liabilities—Inspection.**

But the provisions of this act shall not change the liabilities of warehousemen on grain now in store, nor the inspection thereof; but said inspection shall be had under the same system under which it was received into store. (*Id.* § 48.)

***§ 20⁴⁶. Appropriation.**

That all moneys paid into the state treasury for, on account of, or by reason of, any of the provisions of an act of the legislature entitled "An act to regulate warehouses, inspection, weighing, and handling of grain," (or so much thereof as may be necessary,) be, and the same hereby are, annually appropriated for the purpose of paying the salaries, fees, and expenses provided for in and contemplated by said act. (1885, c. 250.)

TOLL FOR GRINDING AND BOLTING GRAIN.*

***§ 20⁴⁷. Maximum toll.**

That it shall be unlawful for any custom mill doing business in this state to take a larger proportion than one-eighth as toll for grinding and bolting any lot of wheat or other grain brought as a grist to such mill: *provided*, that nothing in this act shall be construed to compel mills to receive unmerchantable grain, or to flour the same. (1885, c. 212, § 1.)

***§ 20⁴⁸. Violation of act—Penalty.**

That for the willful violation of the terms of this act by any miller, in any custom mill in this state, it shall be the duty of any justice of the peace, within the county in which such mill is situated, upon complaint of the aggrieved party, to issue his warrant directed against such offending person, and, upon the conviction of such person, he shall be fined not less than ten dollars, nor more than one hundred dollars. (*Id.* § 2.)

INN AND HOTEL KEEPERS.

***§ 22. Exemption from liability.**

That such landlord, hotel, or inn keeper as shall comply with the requirements of the first section of this act, shall not be liable for any money, jewelry, or other valuables of gold, silver, or rare and precious stones, that may be lost, if the same is not delivered to said landlord, hotel, or inn keeper, his agent or clerk, for deposit, unless such loss shall occur by the hand, or through the negligence, of the landlord, or by a clerk or a servant employed by him in such hotel, inn, etc. (1874, c. 52, § 2, *as amended* 1883, c. 30, § 1.)

When goods of a guest are lost at an inn, to relieve the innkeeper from liability it must appear that they were lost from one of the causes for which he is not liable; as, for instance, the negligence of the guest. *Olson v. Crossman*, 31 Minn. 222, 17 N. W. Rep. 375.

It is not imputable as negligence in the guest that he consented to be placed to sleep in a room with another guest, with whom he did not come to the inn, and who was a stranger to him, by whom his goods were stolen. *Id.*

Notice to the guest to deposit valuables with the landlord, where not such as the statute prescribes, does not relieve the landlord from liability, unless it be brought to the knowledge of the guest, so that his assent to limiting the liability of the landlord may be presumed. *Id.*

See *Chamberlain v. West*, (Minn.) 33 N. W. Rep. 114; *Becker v. Haynes*, 29 Fed. Rep. 441; *Burbank v. Chapin*, (Mass.) 2 N. E. Rep. 934.

***§ 23. Defrauding hotel keepers, etc.—Penalty.**

This section is not unconstitutional as an attempt to imprison for debt. *State v. Benson*, 28 Minn. 424, 10 N. W. Rep. 471.

A complaint for the third offense created by the section need not state the food or accommodation procured or the baggage removed to be of any value. *Id.*

USE OF OLEOMARGARINE IN PUBLIC DINING-ROOMS.†

***§ 25a. Printing and posting notice—Neglect—Penalty.**

The keeper, landlord, or steward of any hotel, restaurant, dining-car, eating-house, or boarding-house, either public or private, who shall supply the guests or boarders of such hotel, restaurant, dining-car, eating-house, or boarding-house with any oleaginous substance or substances, or any com-

*"An act to regulate the amount of toll that may be taken by any custom mill in this state, for the grinding and bolting of wheat or other grain, that may be brought to such mill for that purpose." Approved March 7, 1885.

†"An act to prevent fraud upon the guests and boarders of hotels, dining-cars, restaurants, and boarding-houses." Approved March 7, 1887.

pound of the same, or any other compound other than that produced from unadulterated milk, or of cream from the same, any article designed to take the place of butter, shall cause to be plainly printed upon every bill of fare used in said hotel, restaurant, eating-house, or boarding-house where such adulterated compound is used, immediately under the title thereof and before the naming of any article of food thereon, in capital letters no smaller than those known as "Nonpareil Celtic," the words, "Oleomargarine [or butterine] used as a substitute for butter," in the English language. In case no bill of fare is used in said hotel, restaurant, dining-car, eating-house, or boarding-house, then the proprietor or keeper thereof shall cause to be posted upon each and every side of the dining-room or eating-room, in a position where the same can be seen from any part of said room, and in letters large enough to be distinctly read from any part of said room, the words, "Oleomargarine used as a substitute for butter," said notice to be printed in the English language; and shall keep the same continually posted as aforesaid, so long as said compounds are kept and used; and whoever violates the provisions of this section is guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars, nor more than fifty dollars, or by imprisonment of not less than fifteen, nor more than thirty, days for the first offense, and fifty dollars' fine or thirty days' imprisonment, or by both such fine and imprisonment, for each subsequent offense. (1887, c. 172.)

ADOPTION OF CHILDREN.

*§ 32a. Adopted child—Estate—Distribution—Right of inheritance.

In case any person heretofore or hereafter adopted, either according to the provisions of this chapter or in any other lawful manner, shall die intestate, his property, acquired by himself or by gift from his adopting parent, shall be distributed according to the provisions of the laws in force at the time of decease of such intestate, relating to the title of real property by descent, and the distribution of personal estate among the persons who would have been his kindred if he had been born to his adopting parent in lawful wedlock; and property received by gift or inheritance from his natural parents or kindred shall be distributed in the same manner as if no act of adoption had taken place, such distribution to be ascertained in such manner as the court may decree. No person shall, by being adopted, lose his right to inherit from his natural parents or kindred. (1876, c. 91, § 9, *as added*, 1885, c. 75.)

*§ 32b. Interpretation of "child" in grants, etc.

The term "child," or its equivalent, in a grant, trust settlement, devise, or bequest shall be held to include a child adopted by the settler, grantor, or testator, unless the contrary plainly appears by the terms of the instrument; but when the settler, grantor, or testator is not himself the adopting parent, the child by adoption shall not have, under such an instrument, the rights of a child born in lawful wedlock to the adopting parent, unless it plainly appears to have been the intention of the settler, grantor, or testator to include an adopted child. (*Id.* § 10, *as added by Id.*)

CHANGE OF NAMES OF PERSONS.

*§ 35a. Applications—Contents.

All applications to the district court for a change of name shall contain a description of all lands in this state which the applicant shall, at the time the application is made, own, have a lien upon, or an interest in. (1887, c. 177, § 1.*)

*"An act with reference to the change of names of persons." Approved March 7, 1887.

***§ 35b. Proof.**

Such applicant shall make proof before the court of his ownership of, lien upon, and interest in such land, and the order of the court changing such name shall describe such lands, and state the estate or interest the applicant has or claims therein; and a certified copy of such order shall be recorded in the office of the register of deeds where such lands are situated, within thirty days after the order is made. (1887, c. 177, § 2.)

***§ 35c. False statement a misdemeanor.**

Any false statement contained in such application, made with intent to defraud, is hereby declared to be a misdemeanor, and shall be punishable as such. (*Id.* § 3.)

SUBJECTS FOR DISSECTION.

***§ 36. Delivery of corpse for dissection.**

It shall be the duty of, and it is hereby required of, the wardens of penitentiaries, superintendents of poor-houses, coroners, undertakers, and all other persons under whose control or custody the remains or body of any deceased person may come, to deliver such remains or body to a committee of three, who shall be appointed by the deans of the several medical colleges and schools in this state, and for the physicians, professors, and teachers in such medical colleges and schools, to receive the same for the purposes of medical and surgical study: *provided*, all expenses for the removal and burial of such remains or body shall be paid by the college or medical school which shall receive the same: *and provided*, such committee so selected shall distribute such remains or bodies *pro rata* among such medical colleges and schools in proportion to the number of students enrolled therein: *and provided*, that such remains shall not have been regularly interred, and shall not have been desired for interment by any relative of said deceased within thirty-six hours after death: *and provided, also*, that the remains of no person who may be known to have relatives shall be so delivered, or received, without the consent of such relatives: *and provided*, that the remains of no person detained as a witness or under suspicion of having committed a crime, or any person who shall have expressed a desire in his or her last sickness that his or her body may be interred, shall be delivered or received as aforesaid: *and provided, also*, that in case the remains of any person so delivered or received shall be subsequently claimed by any relative, they shall be given up to such relative for interment: *and provided, also*, that if any such warden, superintendent, undertaker or other person in whose custody or control any such remains or body shall be, shall fail to notify and deliver over, to such committee so selected, such remains or body within thirty-six hours after the same shall have come into their possession, they shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be imprisoned in the county jail for a period not exceeding ninety days, or pay a fine of not less than twenty-five dollars, nor more than one hundred dollars, or both, in the discretion of the court. (1872, c. 22, § 1, as amended 1887, c. 40.)

***§ 39. Violation of *§ 36—Penalty.**

Every person who unlawfully shall exhume, remove, or carry off the remains or any part of the remains of any deceased person, or who shall deliver up such remains in violation of or contrary to any or all of the provisions contained in the first section of this act, and every person who shall receive said remains, knowing the same to have been exhumed, removed, carried off, or delivered contrary to any or all of the provisions of this act, shall, each and every one of such persons, be deemed guilty of a felony, and shall on conviction be imprisoned in the state prison for a term not exceeding four years. (1872, c. 22, § 4, as amended 1879, c. 42, § 1.)

SALE OF LIQUOR NEAR HAMLINE UNIVERSITY.

See State v. Deusting, 33 Minn. 103, 104, 22 N. W. Rep. 442.

DRAINING OF WET LANDS.

*§ 59. Bridges where drains cross highways—Drain in more than one town.

If any drain constructed under this act shall cross a highway, excepting railroads, it shall be bridged at the expense of the applicant or applicants; said bridging to be done in the manner prescribed by the board of town supervisors of said town. When it shall be necessary to extend any such ditch or drain, as falls within the meaning of this act into more than one town, the supervisors of the town where the application is first filed shall submit the same to the county commissioners of such county at the first subsequent meeting, and, on being satisfied that such ditch or drain is a public necessity or accommodation, said commissioners shall direct the supervisors of the several towns to take measures for the construction or extension of such ditch in their respective towns, in conformity with the provisions of this act. (1877, c. 91, § 11, *as amended* 1879, c. 38, § 1.)

*§ 63¹. Draining shallow, grassy, meandered lakes.

That, for the purpose of providing for the draining of shallow, grassy lakes, and making the same productive, and removing certain causes of malaria, the county commissioners, or a majority of them, of the county in which such lake is situated, or a major part thereof, shall be authorized and empowered to grant permission for such drainage upon the presentation of the petition of all the parties living on land bounded in part by said lake, praying that the same may be drained along its natural outlet at their, said petitioners', cost and expense: *provided*, that before any lake shall be drained under the authority of this act, all persons owning lands adjacent or contiguous to the lake mentioned and described in their petition, or the outlet thereof, so far as open, shall file their deed of consent to such drainage in the office of the register of deeds in and for the county in which such lake is situated, which deed shall be acknowledged as deeds of real estate are by law now required to be acknowledged: *and provided, further*, that no lake shall be so drained which is free from grass or other vegetable growths, or that contains water of a greater depth than four feet: *and provided, further*, that this bill shall only apply to meandered lakes. (1883, c. 139, § 1.*)

COUNTY DRAINS.†

*§ 63². Construction of drains, etc., by county commissioners.

That the board of county commissioners of any county shall have power, at any session, when the same shall be conducive to the public health, convenience, or welfare, or when the same will be of public benefit or utility, to

*"An act to provide for the draining of shallow, grassy, meandered lakes." Approved March 2, 1883.

†"An act to enable the owners of lands to drain and reclaim them when the same cannot be done without affecting the lands of others; prescribing the powers and duties of county commissioners and other officers in the premises, and providing for the repair and enlargement of such drains, and repealing certain acts therein specified, and declaring an emergency." Approved March 2, 1887. By § 34 "all acts and parts of acts inconsistent with this act are hereby repealed."

The following is the act of 1883, (c. 108,) as amended, some of the provisions of which

cause to be constructed, as hereinafter provided, any ditch, drain, or water-course within said county. (1887, c. 97, § 1.)

See note to § 1 of the act of 1883, printed in the foot-note.

***§ 63³. Petition—Bond—Hearing—Viewers.**

That before the board of commissioners shall establish any ditch, drain, or water-course, there shall be filed with the auditor of such county a petition

may not be superseded by the acts of 1887. The act is entitled "An act to enable the owners of lands to drain and reclaim them when same cannot be done without affecting the lands of others, prescribing the powers and duties of county commissioners and other officers in the premises, and to provide for the repair and enlargement of such drains, and repealing certain acts therein specified, and declaring an emergency," and was approved March 1, 1883.

§ 1. POWER TO CONSTRUCT DRAINS. That the board of county commissioners of any county shall have power at any session, when the same shall be conducive to the public health, convenience, or welfare, or where the same will be of public benefit or utility, to cause to be constructed, as hereinafter provided, any ditch, drain, or water-course within said county. (*As amended 1885, c. 71, § 1.*)

A county is not liable for a defect or want of efficiency in the plan of a ditch established pursuant to the act of 1883. *Thompson v. County of Polk*, 36 N. W. Rep. 267. Neither is it liable for the negligence or failure of the contractor to whom a job is let by the county auditor to perform the work in accordance with the plan adopted. *Id.*

§ 2. PETITION—VIEWERS. That before the board of county commissioners shall establish any ditch, drain, or water-course, there shall be filed with the auditor of such county a petition signed by one or more of the land-owners, whose lands will be liable to be affected by or assessed for the expense of the construction of the same, setting forth the necessity thereof, with a general description of the proposed starting point, route, and terminus; and such petitioner or petitioners shall give a bond with good and sufficient freehold sureties, payable to the state, to be approved by the auditor, conditioned to pay all expense in case the board of commissioners shall fail to establish said proposed ditch, drain, or water-course. As soon as said petition is filed said board shall, if in session, or at their next session, appoint three resident freeholders of the county not interested in the construction of the proposed work, and not of kin to any parties interested therein, as viewers, to meet at a time and place specified by said board, preparatory to commencing their duties as hereinafter specified. And it shall be the duty of the auditor thereupon to issue to said viewers a certified copy of the petition and order of the board, who shall proceed at the time set in said order, with a surveyor, who shall be a civil engineer, and shall make an accurate survey of the line of said ditch, drain, or water-course from its source to its outlet, and they shall, when the nature of the ground will admit, cause stakes or monuments to be set along said line, numbered progressively down stream at each one hundred feet, and they shall make a computation of the total number of cubic yards of earth to be excavated and removed from said ditch, drain, or water-course, and an estimate of the total cost of construction of the whole work; and they shall, if they deem it consistent and practicable, set apart and apportion to each parcel of land and to each corporate road or railroad, and to the county, when public highways are benefited, a share of said work in proportion to the benefits which will result to each from such improvements, and give location of each share, its length in feet, and the estimated number of cubic yards of earth to be removed therefrom, and the price per cubic yard, and the cost of construction of each share or allotment separately when allotments shall have been made, and specify the manner in which the work shall be done; and they shall have power, when they find it necessary, to provide for running said ditch under-ground, through drain tiles or other materials, as they deem best, by specifying the size and kind of tile or other material to be used in such under-ground work, and shall estimate the cost of the same as a part of the total cost of the work, and they shall accurately describe, as the same is described on the county tax duplicate, each parcel of the land to be assessed for the construction of said ditch, giving the number of acres in each tract assessed and the estimated number of acres benefited, the amount that each tract of land will be benefited by the construction of said work, and the amount that each tract is assessed therefor. And they shall, in tabular form, give the depth of cut, width at the bottom, and width at the top, at the source, outlet, and at each one hundred foot stake or monument, when the same shall have been erected, of said ditch, drain, or water-course. And they shall also ascertain and give the names of the owners of the lands that are assessed for the construction of said ditch, drain, or water-course, as far as they can be ascertained with reasonable inquiry and search of the public records, and report also whether or not the proposed ditch, drain, or water-course will be of public utility. (*As amended 1885, c. 51, and c. 71, § 1.*)

§ 3. LOCATION IN PRIVATE DITCH. Whenever a public ditch, drain, or water-course is located wholly or in part in the bed of a private ditch already or partially constructed,

signed by one or more of the land-owners whose lands will be liable to be affected by or assessed for the expense of the construction of the same, setting forth the necessity thereof, with a general description of the proposed starting point, route, and terminus; and such petitioner or petitioners shall give a bond with good and sufficient freehold sureties, payable to the county, to be approved by the auditor, conditioned to pay all expense in case the board of commissioners shall fail to establish said proposed ditch, drain, or water-course;

the viewers shall make an estimate of the number of cubic yards of earth already excavated, and the cost of same, on each tract of land, and deduct the same from the assessment thereon.

§ 4. ASSESSMENT FOR BENEFITS. All lands benefited by a public ditch, drain, or water-course shall be assessed in proportion to the benefits for the construction thereof, whether it passes through said lands or not; and the viewers, in estimating the benefits to lands not traversed by said ditch, shall not consider what benefits such lands will receive after some other ditch or ditches shall be constructed, but only the benefits that will be received by reason of the construction of the public ditch as it affords an outlet for the drainage of such lands.

§ 5. VARYING LINE—HEARING. In locating a public ditch, drain, or water-course, the viewers may vary from the line described in the petition as they deem best, provided they commence the ditch at the point described in the petition, and follow down the line therein described as near as practicable; and provided, further, that, when there is not sufficient fall in length of the route described in the petition to drain the lands adjacent thereto, they may extend the ditch below the outlet named in the petition far enough, not exceeding one-half mile, to obtain a sufficient fall and outlet. And, when it will not be detrimental to the usefulness of the whole work, they shall, as far as practicable, locate the ditch on division lines between lands owned by different persons; and they shall, so far as practicable, avoid laying the same diagonally across the lands, but they must not sacrifice the general utility of the ditch to avoid diagonal lines. And all persons whose lands may be affected by said ditch may appear before said viewers, and freely express their opinions on all matters pertaining thereto.

§ 6. ESTIMATE OF DAMAGES. In locating a public drain or water-course, the viewers shall estimate the damages, if any, that any person or persons will sustain by reason of the construction of such ditch, and assess such damages to parties owning the lands benefited, in proportion as each tract of land is assessed for benefits.

§ 7. ESTABLISHMENT OF ROUTE. The viewers, if they find the route proposed is not such as best to effect the object sought, or that the proposed drainage can be effected as well in connection with a ditch necessary for the improvement of public highways already established, or such as may be thereafter required, shall proceed to establish the route; if the route proposed is upon a section line where a public road may be required, and, in all cases in which the route proposed is along highways already established, the viewers shall locate the ditch at a sufficient distance from the center of such highway to admit of a good road along such central line. The earth taken from the ditch shall be so placed upon the roadway as to form a turnpike, and no nearer to the margin thereof than two feet; but in locating a drain as above the viewers shall not materially depart from the terminal points described in said petition.

§ 8. VIEWERS—PROCEEDINGS—REPORT. Said viewers may, after having met at the time and place specified in the order issued to them by the auditor, proceed immediately to perform their said duties, or adjourn from time to time, as best suits their convenience, and file their report with the auditor at least four weeks before the next meeting of said board of commissioners. Provided the water be high, or the weather inclement, they shall not be compelled or required to file the report until at least four weeks before the second meeting of said board after having received their orders from the auditor; but their report must then state the reason for such postponement. And if the viewers find the proposed ditch, drain, or water-course not of public benefit or utility, they may report against the location of the same, in which case their report need only state that they find the proposed works not to be of public benefit or utility. (*As amended 1885, c. 71, § 1.*)

§ 9. NOTICE OF HEARING. It shall be the duty of the auditor, on said report being filed, if it be in favor of the proposed work, to cause a notice to be given, by publication for three successive weeks, by posting three written copies of said notice in three public places in the township or townships where the proposed work is located, and one at the door of the court-house in said county, of the pendency of said petition, and of the time set for the hearing thereof, which notice shall briefly state where said ditch commences at its source, through whose land it passes, and where it terminates at the outlet, together with the names of the owners of the lands that will be affected thereby, so far as they can be ascertained with reasonable inquiry and search of the public records in the offices of the clerk, recorder, auditor, and treasurer; and at the

and said petitioner or petitioners shall file proof satisfactory to the board of commissioners, to whom such petition has been presented, that at least thirty days' notice thereof has been given before the session of said board at which such petition is to be heard, by posting up notices in three of the most public places in each of the towns through which such ditch is proposed to be located and established. And, when the said board shall be satisfied that all of the foregoing conditions have been complied with, they shall, either at such ses-

same time the auditor shall mail a copy of the same to all non-residents whose address is known to him or can be ascertained by inquiring at the treasurer's office.

["The notices required by sections nine and nineteen of said chapter, [c. 108, Gen. Laws 1883.] shall be published in the official paper of the county, once in each week, for three consecutive weeks, immediately preceding the date at which action upon the subject-matter of the notice is to be taken, and all copies thereof to be posted or mailed to non-residents may be printed copies of such notice instead of such notice being given as provided in said sections." (1885, c. 25, § 5.)]

§ 10. HEARING—DAMAGES. Said board of commissioners, at the time set for the hearing of said petition, shall, if there is no remonstrance filed, proceed to hear said petition, and if they find the viewers' report is made in accordance with the provisions of this act, and it be in favor of the proposed work, and they find the proposed drain to be of public utility or conducive to public health, or of public benefit or convenience, they shall establish the same as specified in the report. But if the viewers report against the proposed work, the board shall dismiss the petition and tax the cost as hereinafter provided. And when damages are awarded to any person or persons, or corporations, as provided by this act, the board of commissioners shall order the same to be paid out of the county treasury to the person or persons or corporations entitled thereto.

§ 11. REMONSTRANCES—REVIEWERS. It shall be lawful for any person interested in the location of said proposed work to file with the board of commissioners, at or before the time set for the hearing of the petition, a remonstrance against the ditch, as located by viewers on and across his lands, by setting forth his grievances therein; and any person deeming his assessment too high, or the damages allowed too low, may remonstrate, for such reasons, against the action of the viewers. Any person filing a remonstrance shall file with the same a bond payable to the state, with not less than two freehold sureties, conditioned for the payment of all costs and expenses caused by such remonstrance, if this action of the viewers be sustained by reviewers to be appointed as hereinafter provided; such bond to be approved by board of commissioners. And thereupon said board shall appoint three disinterested resident freeholders of the county, not of kin to any person interested in the proposed work, as viewers, to meet at a specified time and place preparatory to commencing said review. And it shall be the duty of the auditor thereupon to issue to said reviewers a certified copy of the petition and remonstrance, and order of the board in appointing such reviewers. (*As amended* 1885, c. 25, § 1.)

§ 12. PROCEEDINGS OF REVIEWERS. Such reviewers shall meet at the time and place specified in the order issued to them by the auditor, and proceed to review the action and report of the viewers, as well as the entire premises through which the proposed work extends, and shall be vested with all power granted to the viewers originally, except that, if they find the proposed work of public benefit or utility, they shall not change the line of the ditch, as located by the viewers, at any other place or places than those complained of in the remonstrance, and there [then] only far enough to do justice to the party remonstrating. And they shall, before commencing said review, obtain from the auditor the report of the viewers, which they shall carefully preserve and return to the auditor when they have completed their review, and they shall file with the auditor a report of their proceedings in the premises, after having subscribed and sworn to the same, at any time before the next meeting of said board; and if the reviewers sustain the action of the viewers, and make no change in the proposed work, their report need only state that after having made full examination of the viewers' report, as well as the entire premises through which the proposed work extends, they find the action of the viewers just and correct, and that they sustain and approve the action of the viewers and their report. (*As amended* 1885, c. 71, § 1.)

§ 13. REVIEWERS' REPORT. Upon the filing of the report of the reviewers, as required by the preceding section, the auditor shall, when the board of commissioners convenes in session, record the same, together with the proceedings had in the matter of the petition. And if said reviewers sustain and approve the action of the viewers without change, all costs occasioned in consequence of the filing of the remonstrance shall be taxed against the parties remonstrating, and a fee-bill shall issue thereon by the auditor, and be collected as provided by law. (*As amended* 1885, c. 71, § 1.)

§ 14. COSTS OF REVIEW. If the reviewers find the proposed work of public benefit or utility, and do not sustain the entire action of the viewers, but make changes in favor of the remonstrants, the cost occasioned in consequence of the filing of the remonstrance

sion of said board or at such other time as may be appointed by them, (not later than thirty days thereafter,) proceed to hear and determine such petition; and if such board shall determine that the construction of such ditch will be of public benefit or utility, or conducing to the public health, convenience, or welfare, they shall accept such petition, and appoint three resident freeholders of the county not interested in the construction of the proposed work, and not of kin to any parties interested therein, as viewers, to meet at a time and place

shall be taxed as a part of the total cost of the work, as the same is taxed against the parties benefited in proportion to their benefits; and if the reviewers find the proposed work not of public benefit or utility, the entire cost shall be taxed against the petitioners, and collected as provided in section thirteen of this act. (*As amended 1885, c. 25, § 2.*)

§ 15. **ACTION ON REPORT.** Upon the filing of the report of the reviewers the board of commissioners shall, if they find such report made in accordance with the provisions of this act, establish the same as described in the report of the viewers, as they find the same sustained, corrected, or changed in the report of the reviewers.

§ 16. **FINAL REPORT—DAMAGES.** Whenever the board of county commissioners establish a public ditch, drain, or water-course, they shall order the viewers, if the same is established without remonstrance according to the viewers' report, or the reviewers, if [the] same is established according to their report, to meet at a time and place specified, after the lapse of ten days, and make a final report, in which they shall specify the time in which each share or allotment of the ditch shall be constructed and completed, and they shall apportion the cost of the location thereof, including printer's fees, damages, if any shall have been allowed, and compensation to the laborers who assisted the viewers in marking out the ditch, and award to each person or persons or corporation owning the lands assessed for the construction of said work their proportionate share of said cost, and shall specify the time when such costs and expenses shall be paid to the county treasurer, and file their report with the auditor, after having subscribed and sworn to the same. And it shall be the duty of the viewers and reviewers to file with their report an account of the names of the laborers, and the time each was employed by them. And all compensation and damages allowed by this section shall be collected by the treasurer as the other taxes are collected, and the compensation paid out, when collected, on an order from the auditor to the parties entitled thereto, and the damages, when collected, shall be placed into the county fund to compensate the county for the damages previously paid as required by section ten of this act.

§ 17. **APPEALS.** Any person or corporation aggrieved thereby may appeal from any final order or judgment of the board of commissioners, made in the proceedings and entered upon their record, determining either of the following matters, viz.: (1) Whether said ditch will be conducive to public health, convenience, or welfare; (2) whether the route thereof is practicable; (3) whether the assessments made for the construction of the ditch are in proportion to the benefits to be derived therefrom; (4) the amount of damages allowed to any person or persons or corporation. And the appellant shall file with the auditor an appeal-bond, with at least two freehold sureties, to be approved by the auditor and the clerk of the district court, conditioned that he will duly prosecute such appeal, and pay all costs that may be adjudged against him in the district court: *provided*, that such appeal-bond shall be filed within thirty days after such final order or judgment of the board of commissioners is made, and after the lapse of such thirty days no appeal can be taken. And if an appeal be taken, the auditor shall withhold his notices to the viewers or reviewers to make their final report; and he shall, within twenty days after the appeal-bond is filed, make a complete transcript of the proceedings had before the board of commissioners and of such appeal-bond, and certify the same, together with all the papers filed in his office pertaining to such proposed work, to the clerk of district court.

§ 18. **CONSOLIDATION.** If more than one party appeal, the judge of the district court shall order the cases to be consolidated and tried together, and the rights of each party shall be separately determined by the jury in its verdict.

§ 19. **LETTING CONTRACTS.** As soon as the final report of the viewers or reviewers is filed, the auditor shall sell the jobs of digging and constructing each share or allotment separately of the entire work. And he shall give notice for three consecutive weeks, by posting three written copies of such notice in three public places in the vicinity of the proposed work, and one at the door of the court-house in said county, of the time when and place where he will sell to the lowest responsible bidder or bidders each and every share or allotment thereof, commencing at the one including the outlet, and thence in succession up stream to the one including the source. And no bid shall be entertained which exceeds more than twenty per cent. over and above the estimated cost of the construction in any case. And the auditor shall contract with the party to whom a share or allotment is sold, requiring him to construct such share or allotment in the time and manner set forth in the report of the viewers or reviewers on which.

specified by said board, preparatory to commencing their duties as hereinafter specified. (1887, c. 97, § 2.)

***§ 63⁴. Viewers—Proceedings—Report.**

And it shall be the duty of the auditor thereupon to issue to said viewers a certified copy of the petition and order of the board, who shall proceed at the time set in said order, with a surveyor, who shall be a civil engineer, and shall make an accurate survey of the line of said ditch, drain, or water-course,

the ditch is established, and shall take from him a bond, with two freehold sureties, payable to the state, for not less than double the amount for which the same is sold, to be by him approved, conditioned that he will faithfully perform and fulfill his contract and pay all damages which may accrue by reason of the failure to complete the job within the time required in the contract therefor.

[See note to § 9, *ante*.]

§ 20. RELETTING CONTRACT. A job not completed within the time fixed in the contract and bond shall be resold by the auditor to the lowest responsible bidder, but shall not be sold for a sum exceeding twenty per cent. of the estimated value of such work, nor a second time to the same party. A contract and bond shall be entered into as hereinbefore provided; but the auditor may, for a good cause shown, give further time to any contractor, not exceeding sixty days. The auditor shall fix a time for the completion of work resold, not exceeding sixty days from the date of the bond, and no contractor shall be prosecuted on his bond until the section below is completed.

§ 21. INSPECTING WORK—PAYMENT. It shall be the duty of the county surveyor, on being notified by any contractor that his job is completed, to inspect the same, and, if he find that it is completed according to contract, he shall accept it, and give to the contractor a certificate of acceptance, stating that said job, share, or allotment is completed according to the specifications of said ditch; and if any share or allotment has been sold to a person not the owner of the land assessed therefor, he shall, in addition, state the amount due the contractor for constructing the same from the owner of the said land, which certificate shall be a lien upon the land assessed for such share or allotment, and shall be due and payable immediately by the owner of the land. Such certificate, if not paid on demand, shall draw interest until paid. And if the allotment sold belongs to a non-resident of the county, the auditor shall state such fact when he offers it for sale; and in all cases, whether the allotment sold belongs to a non-resident of the county or not, when the county surveyor accepts such job, and issues his certificate of acceptance, he shall file with the county auditor a copy thereof, whereupon said auditor shall charge the amount mentioned in said certificate on the tax duplicate against the land assessed with such allotment, to be collected as other taxes are collected, together with six per cent. for the holder of the certificate after the same becomes delinquent, and when collected it shall be paid to the person holding the certificate, on an order of the auditor. (*As amended 1885, c. 69.*)

§ 22. OBSTRUCTIONS. Every person or corporation through whose land any public ditch is constructed shall be required to keep the same open, free, and clear of all obstructions upon his or its premises, by him or it placed thereon, and, in case of a failure to do so, shall be liable to pay all reasonable and necessary expenses of removing such obstruction. A person or corporation aggrieved by any such obstruction may make a sworn statement of the facts to the county surveyor, who shall proceed to examine the premises and inquire into the truth of the statement, and, if he finds the statement to be true, he shall immediately notify the owner of the land on which such obstruction exists, to remove the same within a reasonable time, not exceeding twenty days; and, if the owners so notified failed to remove the obstruction, the surveyor shall at once cause the same to be removed at the expense of such owner, and certify such expense to the county auditor, who shall place the same, together with all fees and other expenses in the case, on the tax duplicate as an assessment upon the lands of such person or corporation, and the same shall be a lien upon such lands, and shall be collected as other taxes.

§ 23. REPAIRS. After the construction of any such work, the town supervisors of such township in which the same is, or any part thereof, shall keep the same or such part thereof in proper repair and free from obstructions, so as to answer its purpose, and pay for the same out of the general township fund; and to raise the necessary money to reimburse that fund they shall apportion and assess the costs thereof upon the lands which will be benefited by such repairs or removal of obstructions, according to such benefits, in their judgment. They shall make a statement of such assessment, and deliver the same to the auditor of the county, who shall put the same upon the succeeding tax duplicate, and it shall be a lien upon the lands, and be collected in the same manner as state and county taxes. The provisions of this section shall also apply to all works constructed for the purpose of drainage under any law now or heretofore in force in this state. If they shall be of the opinion that such assessment, or any part

from its source to its outlet; and they shall cause stakes or monuments to be set along said line, numbered progressively down stream, at each one hundred feet; and they shall make a computation of the number of cubic yards of earth to be excavated and removed from said ditch, drain, or water-course between each of the one hundred foot stakes, and the estimated cost per cubic yard for the removal thereof, and shall sum up the total number of cubic yards of earth to be excavated and removed for the entire length of said ditch, drain, or water-course, and an estimate of the total cost of laying out, establishing,

thereof, ought to be charged to lands in other townships, the supervisors thereof shall, on request, meet with them at a time and place by him appointed, and they shall jointly make such assessments and certificates to the auditor of the proper counties. A majority of such supervisors as attend any such meeting shall have power to act and decide any question, and to make the assessments and certificates, and upon failure of any township supervisor to perform the work required of him by this section, after ten days' notice in writing to him by any person interested, he shall be liable, with his sureties on his official bond, for all damages caused by such failure to perform his duty, to be recovered by the person or persons so damaged. He shall also be deemed guilty of a misdemeanor, and, on conviction thereof, fined not less than ten nor more than fifty dollars.

§ 24. DITCHES IN SEVERAL COUNTIES. Whenever the route of a proposed ditch, drain, or water-course extends into two or more counties, the petition shall be signed by one or more of the land-owners in each county, whose land will be liable to be assessed for the construction of such ditch, and filed with the auditor of the county containing the head or source of the proposed ditch, at least ten days before any meeting of the board of commissioners, and thereupon the auditor of such county shall transcribe and transmit to the auditor of each other county interested, a certified copy of such petition. And it shall be the duty of the board of commissioners of each county interested in the proposed work, at their first session after such petition is filed, to appoint three disinterested resident freeholders of their respective counties as viewers, in like manner as provided for the appointment of viewers on a ditch in but one county, to meet and act conjointly at such time and place as the board of commissioners of the county where the petition is filed may designate; and such joint viewers shall have the same powers, and perform the same duties, as provided in this act for the viewers on a ditch in one county; and they shall file a report of their proceedings with the auditor of each of the counties interested, at least four weeks before the next session of the board of commissioners, whereupon the auditor of each county shall give notice for three consecutive weeks, in the manner provided for ditches in but one county, of the pendency of such petition, and the time set for the hearing thereof. (*As amended 1885, c. 71, § 1.*)

§ 25. SAME—PROCEEDINGS. The board of commissioners of the counties interested in a joint ditch shall, at the time set for the hearing of said petition, proceed to establish the same in the manner specified for ditches in but one county, and in all matters pertaining to such joint ditch the boards of commissioners shall act in the same manner, so far as practicable, as required by this act for establishing ditches in but one county, and they shall act conjointly. And, when such ditch is established, the viewers shall be notified, as before provided in this act, to make their final report, and upon the filing of such final report the shares or allotments of such ditch shall be sold and constructed as hereinbefore provided for ditches in but one county, except that the auditors of the counties interested shall act together as one body in performing their duties.

§ 26. SAME—REPAIRS. Such joint ditch shall be cleaned and repaired or enlarged in like manner as for ditches in but one county, by the joint action of the public officers of the counties interested.

§ 27. SAME—REMONSTRANCES. It shall be lawful for any person or corporation affected by a proposed ditch, extending into more than one county, to file a remonstrance with the auditor of the county in which he resides, at least five days before the meeting of the board of county commissioners when the petition is to be heard; and when such remonstrance has been filed, and a bond for costs, as provided for ditches in but one county, the auditor shall immediately transmit a copy of such remonstrance and bond to the auditors of the other counties interested, and then, in like manner as hereinbefore provided, the boards of commissioners shall appoint reviewers, who shall meet and act together and perform their duties as provided for reviewers in one county, and file a report of their proceedings with their respective boards of commissioners at or before their next meetings; and upon the filing of such report the boards shall, if the reviewers report the proposed work of public benefit or utility, establish the same, and it shall be constructed, cleaned, and repaired, or enlarged, by the joint action of the proper officers in the different counties, as though it had been established on the report of the viewers and without remonstrance. And it shall be the duty of the auditor of the county in which the time and place for the meeting of viewers or reviewers is fixed,

and construction of the whole work. And they shall, in tabular form, give the depth of cut, width at the bottom and width at the top, at the source, outlet, and at each one hundred foot stake or monument of said ditch, drain, or water-course; and they shall specify the time and manner in which the work shall be done; and they shall have power, when they find it necessary, to provide for running said ditch under-ground, through drain tiles, or other materials, as they deem best, by specifying the size and kind of tile or other material to be used in such under-ground work, and shall estimate the cost of the same as a part of the total cost of the work; and they shall file with their report an account of the names of the laborers, and the time each was employed by them, and every other item of expense by them incurred in and about said work, and shall file their reports with the auditor after having subscribed and sworn to the same. (1887, c. 97, § 3.)

to notify the auditor of the other counties interested of such time and place for the joint viewers or reviewers to meet. (*As amended* 1885, c. 71, § 1.)

§ 28. COSTS AGAINST ROADS AND RAILROADS. When any ditch established under this act drains, either in whole or in part, any public or corporate road or railroad, or benefits any of such roads, so that the road-bed or traveled track of any such road will be made better by the construction of such ditch, the viewers or reviewers shall apportion, to the county if a county or state road, to the company if a corporate road or railroad, such portion of the costs and expenses thereof as to private individuals, and require them to pay said costs and perform said labor in like manner as individuals.

§ 29. WILLFUL OBSTRUCTION OR DIVERSION. If any person shall willfully obstruct any public ditch, or shall willfully divert the water from its proper channel, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five dollars nor more than fifty dollars, and shall also be liable for any and all damages accruing to any person or persons or corporation by such act.

§ 30. SERVING ORDERS. The orders issued by the auditor to viewers and reviewers shall be served by the sheriff, and shall be paid by the county for such services the same fees as he is allowed by law for similar services.

§ 31. COMPENSATION. The surveyor and engineer shall be allowed the sum of four dollars per day for every day he is necessarily engaged in performing the duties required of him by this act, which sum shall be paid to him quarter-annually out of the county treasury, upon his filing before the board of commissioners an itemized account of his services, verified by his oath; and the cost of publishing the notices of jobs to be let by the auditor, and of all blanks and stationery required by him in the performance of his duties, shall be paid by the county. The viewers and reviewers shall each be allowed three dollars per day for each and every day they are necessarily engaged in viewing and reviewing ditches and making up and filing their reports, which sum shall be paid to them out of the county treasury. Each chairman, axman, rodman, and all other hands necessary to the prompt execution of the work of locating a public ditch, shall be allowed one dollar and fifty cents per day for the time actually employed, to be paid as hereinbefore provided. The county auditor shall receive such compensation for his services under this act as the board of county commissioners shall determine. (*As amended* 1885, c. 25, § 3.)

§ 32. POWER OF MAJORITY OF VIEWERS, ETC. A majority of the viewers or reviewers shall be competent to perform the duties required of them by this act, provided that for ditches extending into more than one county there shall be present and acting a majority from each county interested.

§ 33. "DITCH" DEFINED. The word "ditch," as used in this act, shall be held to include a drain or water-course, and the petition for any public ditch may include any side, lateral, spur, or branch ditch necessary to secure the object of the improvement. (*As amended* 1885, c. 71, § 2.)

§ 34. LIEN OF ASSESSMENT. The amount of assessments made by the viewers and confirmed by the board of commissioners shall be a lien upon the lands so assessed from the date of the order of the board of commissioners establishing the ditch, drain, or water-course, and such order, together with the report of the viewers on which the ditch is established, shall be notice to all the world of the existence of such lien; and this act shall be liberally construed to promote the drainage and reclamation of wet or overflowed lands, and amounts due to contractors holding the county surveyor certificate of acceptance shall not be defeated by reason of any defect in the proceedings occurring prior to the order of the board of commissioners establishing the ditch, but such order or judgment of the said board shall be conclusive that all prior proceedings were regular and according to law. (*As amended* 1885, c. 25, § 4.)

***§ 63⁵. Statement of benefits and damages.**

And the said viewers shall, in tabular form, give the names of the owners of each tract of land to be benefited or damaged, the description of each tract benefited or damaged, (said names of owners and descriptions to be the same as appears on the county tax duplicates of said county,) and the total number of acres in each of said tracts, the estimated number of acres in each of said tracts of land to be benefited or damaged, (as the case may be,) and the amount that each tract of land will be benefited or damaged by the construction of said work. When any ditch established under this act drains, either in whole or in part, any public or corporate road, or railroad, or benefits any of such roads, so that the road-bed or traveled track of any such road will be made better by the construction of such ditch, the viewers shall estimate the benefits arising therefrom to such roads, road-beds, or railroads, and report said benefits (names of roads, etc., and amounts of benefit to each) as a part of their tabular statement provided for in this section; and they shall also report the total estimated benefits, and also whether or not, in their opinion, the estimated expense of the construction of such ditch, including the damages awarded therefor, are greater than the utility of the proposed ditch, or that the construction of such ditch is impracticable for any reason, stating the reason why it should not be constructed. (*Id.* § 4.)

***§ 63⁶. Assessments for benefits.**

All lands benefited by a public ditch, drain, or water-course, and all public or corporate roads or railroads so benefited, in whole or in part, shall be assessed in proportion to the benefits, for the construction thereof, whether said ditch passes through said lands or along or near the line of such roads or railroads, or not, and the viewers, in estimating the benefits to lands, roads, or railroads not traversed by said ditch, shall not consider what benefits such lands, roads, or railroads will receive after some other ditch or ditches shall be constructed, but only the benefits that will be received by reason of the construction of the public ditch, as it affords an outlet for the drainage of such lands, roads, or railroads. (*Id.* § 5.)

***§ 63⁷. Rules for locating ditch—Hearing to persons interested.**

In locating a public ditch, drain, or water-course, viewers may vary from the line described in the petition as they deem best, provided they commence the ditch at or near the point described in the petition, and follow down the line therein described as near as practicable. In all cases in which the route proposed is along highways already established, the viewers shall locate the ditch at a sufficient distance from the center of such highway as to admit of a good road along the central line thereof. The earth taken from the ditch shall be so placed upon the roadway as to form a turnpike, and no nearer to the margin thereof than two feet; but in locating a drain as above, the viewers shall not materially depart from the terminal points described in said petition: *provided*, that when there is not sufficient fall in length in the route described in the petition to drain the lands adjacent thereto, they may extend the ditch below the outlet named in the petition far enough, not exceeding one-half mile, to obtain a sufficient fall and outlet; and when it will not be detrimental to the usefulness of the whole work, they shall, as far as practicable, locate the ditch on division lines between lands owned by different persons; and they shall, as far as practicable, avoid laying the same diagonally across the lands, but they must not sacrifice the general utility of the ditch to avoid diagonal lines. And all persons whose lands may be affected by said ditch may appear before said viewers (and before the board of county commissioners at which a hearing may be had on such matter) and fully express their opinions upon all matters pertaining thereto. (*Id.* § 6.)

***§ 63⁸. Adjournments—Time for filing report.**

Said viewers may, after having met at the time and place specified in the order issued to them by the auditor, proceed immediately to perform their said duties, or adjourn from time to time, as best suits their convenience, and file their report with the auditor at least four weeks before the next regular or special session of said board of commissioners, held after the lapse of ninety days from the date of the appointment of viewers. Provided the water be high, the weather inclement, or by reason of an unavoidable accident, they shall not be compelled or required to file their report until at least four weeks before the second session of said board, to be held as above stated; but their report must then state the reason for such postponement. (1887, c. 97, § 7.)

***§ 63⁹. Notice of hearing on report.**

It shall be the duty of the auditor, on such report being filed, to cause a notice to be given by publication for three successive weeks in a newspaper printed and published in said county, and by posting printed copies thereof in three public places in each township where the proposed work is located, and one at the door of the court-house in said county, of the pendency of said petition, and of the time set for the hearing thereof, which notice shall briefly state where said ditch commences at its source, through whose land it passes, and where it terminates at the outlet, together with the names of the owners of the lands that will be affected thereby, as the same appears in the report of the viewers; and at the same time the auditor shall mail a printed copy of said notice to all non-residents of the county interested in such proposed work, whose address is known to him or can be ascertained by inquiry at the county treasurer's office. (*Id.* § 8.)

***§ 63¹⁰. Hearing—Establishing drain.**

Said board of commissioners, at the time set for the hearing of said petition, (which said hearing may be adjourned from time to time,) shall proceed to hear the same, and if they find the viewers' report is made in accordance with the provisions of this act, and they find the proposed ditch to be of public utility, or conducive to public health, or of public benefit or convenience, and if they find from the face of the report and the evidence before them that the estimated benefits to be derived from the construction of said work is greater than its total cost including damages awarded, and that such benefits exceed such costs and damages in a sufficient amount to warrant the construction thereof, they may, in their discretion, establish the same as specified in said viewers' report. (*Id.* § 9.)

***§ 63¹¹. Damages—Warrants for payment—Cancellation where proceedings declared void.**

And when damages are awarded to any person or persons or corporation, as provided by this act, the board of commissioners shall order the same to be paid out of the county treasury, on warrants to be drawn and attested by the auditor and signed by their chairman; said warrants to be issued to the person or persons or corporations entitled thereto, and to be dated and become due and payable immediately after the letting of the contracts by the auditor, as hereinafter provided. And in case the proceedings had in relation to the laying out or establishing such ditch shall be declared void, and such proceedings set aside and vacated by the judgment of any court, prior to the letting of the contract by said auditor, all such warrants shall thereupon become null and void, and shall be returned to the auditor for cancellation. (*Id.* § 10.)

***§ 63¹². Appeal—Questions thereon—Bond—Notice—Transcript.**

Any person or corporation aggrieved thereby may appeal from any final order or judgment of the board of commissioners made in the proceedings, and

entered upon their records, determining either of the following matters, viz.:

First. Whether said ditch will be conducive to public health, convenience, or welfare.

Second. Whether the route thereof is practicable.

Third. Whether the benefit to be derived from the construction of said ditch is greater than the total cost thereof, including damages awarded.

Fourth. The amount of damages allowed to any person or persons or corporation.

Fifth. Whether the estimated benefits to each tract of land and to each public or corporate road or railroad are greater than the actual benefits to be derived therefrom.

And the appellant shall file with the county auditor a notice of appeal, which shall briefly state the grounds upon which such appeal is taken, accompanied by an appeal-bond, with at least two freehold sureties, to be approved by the auditor, conditioned that said appellant will duly prosecute such appeal, and pay all costs that may be adjudged against him in the district court: *provided*, that such notice of appeal and bond appeal shall be filed within thirty days after such final order or judgment of the board of commissioners is made; and after the lapse of thirty days no appeal can be taken, and if an appeal be taken, the auditor shall within twenty days after the notice of appeal and appeal-bond is filed make a complete transcript of the proceedings had before the board of commissioners, and certify the same, together with all the papers filed in his office pertaining to such proposed work, including the notice of appeal and the appeal-bond, to the clerk of the district court. (*Id.* § 11.)

***§ 63¹³. Consolidating appeals—Judgment.**

If more than one party appeal, the judge of the district court may, in his discretion, order the cases to be consolidated and tried together; and in such case the rights of each party shall be separately determined by the jury in its verdict. And in all cases of appeal, provided the action of the commissioners be sustained, in whole or in part, the location and establishment of such ditch shall be ordered by said court, and the court shall in such order fix the time when the auditor shall give notice for the letting of the contract for the construction of the proposed work. (*Id.* § 12.)

***§ 63¹⁴. Contracts for excavation, etc.—Notice.**

If no appeal be taken within the time limited, the auditor shall sell the jobs of digging and constructing the entire work, in linear sections of one hundred feet each, each of said sections to be known and numbered by the stake or monument set by the viewers at the foot of each said section, as shown on the viewers' report, commencing at the one including the outlet, and thence in succession up stream to the one including the source. And the auditor shall contract in the name of the county with the party to whom a section or sections is sold, requiring him to construct the same in the time and manner set forth in the report of the viewers, on which the ditch is established, and shall take from him a bond with two freehold sureties, payable to the county, for not less than double the amount for which the same is sold, to be by said auditor approved, conditioned that said party will faithfully perform and fulfill his contract and pay all damages which may accrue by reason of the failure to complete the work within the time required in the contract therefor. And the auditor shall give notice of the letting of such contracts by publication for three successive weeks in the official paper of the county wherein such work is located, of the time when and the place where such contracts will be let to the lowest responsible bidder or bidders; and no bid shall be entertained which exceeds more than thirty per cent. over and above the estimated cost of the construction of the part of said work covered by said bid; and said auditor may adjourn such letting from time to time until the whole work shall be taken. (*Id.* § 13.)

***§ 63¹⁵. Same—Form.**

The bond and contract shall constitute but one paper, and shall be a printed form, with proper blanks left for filling out the same in writing, and the description of the work to be done, so mentioned in the contract, shall be by the number of the section or sections as provided for in section thirteen; the work to be done and completed as provided for in the report of the viewers. (1887, c. 97, § 14.)

***§ 63¹⁶. Reletting contract—Extension of time.**

A job not completed within the time fixed in the contract and bond shall be resold by the auditor to the lowest responsible bidder, but shall not be sold for a sum exceeding fifty per cent. of the estimated value of such work, nor a second time to the same party. A contract and bond shall be entered into, as hereinbefore provided; but the auditor may, for good cause shown, give further time to any contractor, not exceeding one year. The auditor shall fix a time for the completion of the work resold, not exceeding six months from the date of the bond. (*Id.* § 15.)

***§ 63¹⁷. Acceptance of work and payment—Payment of surveyor's fees.**

It shall be the duty of the county surveyor, on being notified by any contractor that his job is completed, to inspect the same, and, if he finds it completed according to the specifications of the viewers, he shall accept it and give to the contractor a certificate of acceptance, stating that said section or sections (by number) are completed according to the specifications of said ditch, as set forth in the report of the viewers, and upon the presentation and surrender of said certificate of acceptance by said contractor to the auditor the said auditor shall draw a warrant on the county treasurer of his county for the full amount found to be due on said contract; and said order shall be paid out of a general ditch fund to be provided by the county board of commissioners, as hereinafter specified. And the said order shall become due and payable out of said fund at once, and if there [shall] be no cash in said fund to pay said order, when the same is presented, the county treasurer shall indorse on said order, "Not paid for want of funds," and date and sign such indorsement, and the amount of said order shall draw interest at the rate of six per cent. per annum until called in by the treasurer or auditor of said county, and paid. The fees of the county surveyor, under this section, shall be paid him by such contractor. (*Id.* § 16.)

***§ 63¹⁸. Bonds for cost of work.**

The board of county commissioners of each county wherein such ditch or ditches are proposed to be located and established are hereby authorized to issue the bonds of said county in such sums as may be necessary for the purpose of defraying the expenses incurred or to be incurred in locating, constructing, and establishing the same, said word "expenses" to be construed to mean and to cover every item of cost of said ditch, from its inception to its completion, and the said counties to be reimbursed as hereinafter provided. Said bonds shall bear interest at a rate not exceeding six per cent., and shall be payable on or before ten years, at the option of said board of commissioners; and the said commissioners shall provide for the payment of annual interest on said bonds. The bonds issued under the provisions of this act shall be signed by the chairman of the board of county commissioners of said county, and countersigned by the county auditor, who shall keep a record of the bonds issued under the provisions of this act. The said board shall have the power to negotiate said bonds as they shall deem best for the interest of said county: *provided*, that they shall not negotiate the same at less than par value. All such bonds shall contain a recital that the same are issued in accordance with

the provisions and pursuant to the authority of this act. The county commissioners are also hereby authorized and empowered to transfer from the general revenue fund of the county to such drainage fund any surplus moneys that may be in such revenue fund that can be properly used for the purposes of this act. (*Id.* § 17.)

***§ 63¹⁹. Statement by county auditor.**

Within thirty days after the letting of the contracts for the construction of any ditch, drain, or water-course, as herein provided, the county auditor shall make in tabular form a list and statement showing the following facts, and in the order named, viz.:

First. The names of the owners of all lands, and the names of all public or corporate roads or railroads benefited by the construction of such proposed work.

Second. The description of said lands, as the same appears in the report of the viewers, together with the total number of acres in each tract according to the assessment rolls or tax lists of the county.

Third. The estimated number of acres benefited in each piece or parcel of said lands, as shown by the viewers' report.

Fourth. The estimated amount of benefits to each of said tracts of land, and the estimated benefits to each public or corporate road or railroad, as the same appears in the viewers' report, or as changed by the jury in case of appeal, if any changes are made by such jury.

Fifth. The amount that each of said tracts of land, and that each of said corporate roads or railroads so benefited, will be liable for, and must pay for, the location, construction, and establishment of such ditch or ditches so benefiting them; which said amount shall be determined by the county auditor of said county as follows: The said auditor shall make a full statement, showing the total cost of each ditch or ditches under each separate petition for said ditch or ditches, and each petition, and each ditch located, constructed, and established, shall be known and designated by a number to be given to it by the county auditor. Such statement shall be headed as follows:

STATEMENT SHOWING COST OF DITCH NO. _____.

TO WHOM PAID.	FOR WHAT PAID.	AMOUNT PAID.

And said statement shall be summed up, showing in figures the total cost of each ditch or ditches, and shall be attached to and form a part of the statements herein provided for. The total cost shall then be divided by the total estimated benefits, as provided for in subdivision five of this section, for the rate of cost on each one dollar of benefits, the auditor not to be obliged to carry out and use a smaller fraction than one-tenth of one mill. The amount of estimated benefits on each tract of land, and on each public or corporate road or railroads, (as hereinbefore provided for,) shall be multiplied by said rate, and the result set down in the proper column opposite each of said tracts of lands, public or corporate roads or railroads; and such result so obtained shall be the amount that each of said tracts of lands, public or corporate roads or railroads, will be liable to pay for such improvement. (*Id.* § 18.)

***§ 63²⁰. Same — Execution and record — Lien — Auditor's fees.**

Said statement, as provided for in section eighteen of this act, having been completed by the auditor, he shall sign and acknowledge the same before some

officer authorized to take acknowledgments; which said signature shall be witnessed by two persons. The said statement shall then be recorded by the register of deeds, and posted upon the abstract books in his office, if any such books are there, of the proper county, and the amount that each tract of land and the interest thereon, as hereinafter provided, public or corporate road or railroad, will be liable to pay, shall be and remain a lien on such lands, public or corporate roads or railroads, until fully paid; said payments to be made as hereinafter provided. And the filing of such statement in said register of deed's office shall be notice to all the world of the existence of such lien. And the fee of such register of deeds for such recording shall be paid by the county on the allowance of the board of county commissioners, and said statement, after the same has been recorded, shall be returned to the county auditor, to be by him placed with the other papers relating to such ditch or ditches, and carefully preserved by him. (1887, c. 97, § 19.)

***§ 63²¹. Interest on assessments.**

The amount that each tract of land, public or corporate road or railroad, shall pay for the location, construction, and establishment of any ditch or ditches, under the provisions of this act, shall bear interest from the date of the filing of the auditor's statement in the register of deed's office, at the rate of seven per cent. per annum, until paid, and said interest shall constitute an additional lien on said lands or roads until fully paid; which said interest, when paid, shall be computed by the auditor. (*Id.* § 20.)

***§ 63²². Manner of paying liens—Delinquency—Discharge of lien.**

The payments of such liens shall be made to the county treasurer of said county by the owners, at any time, as follows, viz.:

One-tenth of said principal, with the interest thereon, on or before one year.

One-tenth of same on or before two years.

One-tenth of same on or before three years.

One-tenth of same on or before four years.

One-tenth of same on or before five years.

One-tenth of same on or before six years.

One-tenth of same on or before seven years.

One-tenth of same on or before eight years.

One-tenth of same on or before nine years.

One-tenth of same on or before ten years.

Provided, that if such payment or payments are not made by the owners before the first day of December next succeeding the date of filing the aforesaid statement in the office of register of deeds, and before the first day of December of each succeeding year, until all of such payments shall have been fully paid, then, and in that case, the auditor shall enter said one-tenth payment for said year against the said tract of lands on the tax-lists of the county, as a tax on said tract, to become due and payable, with the accumulated interest thereon and a penalty of ten per cent. of such payment, and to be collected as all other taxes are collected for said year on said lands: *provided*, that when full payment shall have been made on any tract of land the auditor shall certify to the fact, and the record of such certificate shall release and discharge the same of record: *provided, further*, that any person may pay the full amount of said lien, with accumulated interest, at any time. (*Id.* § 21.)

***§ 63²³. Liability of lands of state, railroad and land companies.**

All lands owned by this state, and all lands owned by any land company or railroad company benefited by any such ditch, drain, or water-course, shall

be liable to pay, and shall pay, for such benefits the same as owners of taxable lands. (*Id.* § 22.)

***§ 63²⁴. Payment of assessments against roads and railroads.**

All public or corporate roads or railroads benefited shall pay the amounts taxed up against them as follows: Whenever any public highway is benefited by such drain or ditch, the town which is by law charged with the duty of keeping such highway in repair shall be assessed with the amount of benefits accruing to such highway in said town by reason of said ditch or drain, and the same shall be paid out of the treasury of such town upon demand of the county auditor; and whenever any railroad, or the lands of any railroad company, is benefited by such ditch or drain, such railroad or railway company shall be assessed its just proportion of such benefits the same as other lands benefited are assessed; which assessments shall be collected from such railroad corporation or company in the same manner as personal taxes are collected by law. Or said liens against any such company may be foreclosed by suit in the same manner as provided by law for the foreclosure of mortgage liens upon real estate by action. (*Id.* § 23.)

***§ 63²⁵. Liability for obstructions.**

Every person or corporation through whose lands any public ditch is constructed shall be required to keep the same open, free, and clear of all obstructions upon his or its premises by him or it placed thereon, and in case of a failure to do so shall be liable to pay all reasonable and necessary expenses of removing such obstruction. A person or corporation aggrieved by any such obstruction may make a sworn statement of the facts to the chairman of the town supervisors of the town wherein such obstruction exists, who shall proceed to examine the premises, and inquire into the truth of the statement, and if he finds the statement to be true, he shall immediately notify the owner of the land on which such obstruction exists to remove the same within a reasonable time, not exceeding twenty days; and if the owners so notified fail to remove the obstruction, the said chairman shall at once cause the same to be removed at the expense of such owner, and certify such expense to the county auditor, who shall place the same, together with all fees and other expenses in the case, on the tax duplicate, as an assessment upon the lands of such person or corporation, and the same shall be a lien upon such lands, and shall be collected as other taxes. (*Id.* § 24.)

***§ 63²⁶. Repairs—Violation of duty by supervisor—Penalty—Application to existing drains.**

After the construction of any such work, the town supervisors of such township in which the same is, or any part thereof, shall keep the same or such part thereof in proper repair and free from obstructions, so as to answer its purpose, and pay for the same out of the general township fund; and to raise the necessary money to reimburse that fund, they shall apportion and assess the cost thereof upon the lands which will be benefited by such repairs or removal of obstructions, according to such benefits, in their judgment. They shall make a statement of such assessment, and deliver the same to the auditor of the county, who shall put the same upon the succeeding tax duplicate, and it shall be a lien upon the lands, and be collected in the same manner as state and county taxes. The provisions of this section shall also apply to all works constructed for the purpose of drainage, under any law now or heretofore in force in this state. If they shall be of the opinion that such assessment, or any part thereof, ought to be charged to lands in other townships, the supervisors thereof shall, on request, meet with them at a time and place by them appointed, and they shall jointly make such assessments and

certificates to the auditor of the proper counties. A majority of such supervisors as attend any such meeting shall have power to act and decide any question, and to make the assessments and certificates; and upon failure of any township supervisor to perform the work required of him by this section, after ten days' notice in writing to him by any person interested, he shall be liable for all damages caused by such failure to perform his duty, to be recovered by the person or persons so damaged. He shall also be deemed guilty of a misdemeanor, and on conviction thereof fined not less than ten, nor more than fifty, dollars. (1887, c. 97, § 25.)

***§ 63²⁷. Willful obstruction or diversion—Penalty.**

If any person shall willfully obstruct any public ditch, or shall willfully divert the water from its proper channel, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five dollars, nor more than fifty dollars; and shall also be liable for any and all damages accruing to any person or persons, or corporation, by such act. (*Id.* § 26.)

***§ 63²⁸. Service of orders—Fees.**

The orders issued by the auditor to viewers shall be served by the sheriff, and he shall be paid by the county for such services the same fees as he is allowed by law for similar services. (*Id.* § 27.)

***§ 63²⁹. Compensation for services.**

The surveyor and engineer shall receive the sum of four dollars per day for every day he is necessarily engaged in performing the duties required of him by this act. The viewers shall receive three dollars per day for each and every day they are necessarily engaged in viewing ditches and making up and filing their reports. Each rod-man shall receive the sum of two dollars per day for each and every day he is employed; and each chain-man, ax-man, and all other hands necessary to the prompt execution of the work of locating a public ditch shall be allowed one dollar and fifty (\$1.50) per day for the time each are actually employed; the county auditor of each county shall receive compensation for his services, under this act, as the board of county commissioners shall determine, and such compensation shall be in addition to all sums allowed by law at the time of the passage of this act. The fees, per diem, and compensation provided for in this act shall be audited, examined, allowed, and paid upon the order of the board of county commissioners. (*Id.* § 28.)

***§ 63³⁰. Viewers—Power of majority.**

A majority of the viewers shall be competent to perform the duties required of them by this act. (*Id.* § 29.)

***§ 63³¹. "Ditch" defined—Petition may include branches.**

The word "ditch," as used in this act, shall be held to include a drain or water-course, and the petition for any public ditch may include any side, lateral, spur, or branch ditch necessary to secure the object of the improvement. (*Id.* § 30.)

***§ 63³². Construction of act.**

This act shall be literally construed, so as to promote the public health and the drainage and reclamation of wet or overflowed lands. (*Id.* § 31.)

***§ 63³³. Orders, records, and copies as evidence.**

Every order of the county commissioners of any county laying out and establishing any ditch or drain, or in refusing to establish the same under the provisions of this chapter, the record thereof, or a certified copy of such record, shall be *prima facie* evidence of the facts therein stated, and of the regularity of all the proceedings prior to the making of such order. (*Id.* § 32.)

***§ 63³⁴. Proceedings commenced under c. 108, Gen. Laws 1883.**

That in all cases where petitions have heretofore been made under the provisions of chapter one hundred and eight of the laws of one thousand eight hundred and eighty three, and acts amendatory thereto, and viewers have been appointed under said petition, if such viewers have not reported, as required by the provisions of said act, they shall proceed in all matters under such petition, and report in every particular as required by this act. And in all cases where such viewers have reported, or where the county commissioners have acted under such report, in proceeding to establish the ditch or ditches petitioned for, but no contracts have been made for digging or constructing the ditch or drain applied for, the county commissioners may, at any session thereof held within one year from the passage of this act, by an order made and entered upon the minutes of said board, rescind all action taken upon any such petition subsequent to the report of the viewers, and resubmit all matters contained in any such petition to such viewers, who shall take such action as may be necessary in the premises and conform their report, which shall be made within a reasonable time after such resubmission, to the provisions of this act, and all further proceedings under such report shall be had as required under a petition made under the provisions of this act. In case any of such viewers are unable to serve, the county commissioners may appoint others in their stead: *provided*, that before rescinding any such action, or again resubmitting the matter to the viewers as aforesaid, the county commissioners may, in their discretion, require of the petitioners a new bond in such sum as they deem necessary with sufficient sureties to be approved by the county auditor, conditioned to pay all expenses already made in the proceedings had for the construction of such drain, and also all expenses to be made after such resubmission, in case the county commissioners shall fail to lay out and establish such drain. (*Id.* § 33.)

DRAINAGE DISTRICTS.*

***§ 63³⁵. Formation.**

Whenever the board of county commissioners of any county in this state deem it conducive to the public health, convenience, and welfare, and of public benefit and utility, to drain the wet or overflowed lands in any portion of their county, they shall have the power at any regular session to organize such county into a drainage district, and upon such organization the same shall be known and designated as the "—— County Drainage District." Such organization shall be effected by an order adopted by a majority vote of the whole number of commissioners, which order shall be in substantially the following form:

State of Minnesota, }
County of ——, } ss.

The board of county commissioners of the county of —— (naming the county) do hereby order and determine that the said county be, and the same is hereby, organized into a drainage district under and by virtue of the provisions of chapter —— of the General Laws of one thousand eight hundred and eighty-seven, (citing this act.)

Dated, ——, (Signed) ——, Chairman.

Attest: ——, County Auditor.

—Which order shall be signed by the chairman and attested by the auditor and recorded at length in the records of the proceedings of the county com-

*"An act to provide for the formation and organization of drainage districts for the draining of wet and overflowed lands for agricultural and sanitary purposes." Approved March 8, 1887.

missioners, and in the drainage record hereinafter provided for; and thereupon such county shall become a drainage district, without any further act or ceremony, and shall be deemed to have accepted all the provisions of this act, and to be bound by all its obligations and requirements. (1887, c. 98, § 1.)

***§ 63³⁶. Drainage commissioners—Powers, duties, compensation—Chairman.**

The board of county commissioners of any county so organized into a drainage district as provided in the preceding section shall be the drainage commissioners of such district, and shall be known by the corporate name of the "Board of Drainage Commissioners of —— County Drainage District," and by that name shall be a body corporate, with power to sue and be sued, plead and be impleaded, contract and be contracted with. They shall have the general supervision and control of all drainage matters pertaining to their district, subject to the provisions and requirements of this act. While acting as a drainage board they shall hold meetings for the transaction of drainage business separate and distinct from their meetings as a board of county commissioners, and shall be paid for their services as a drainage board the same per diem and mileage as is now allowed them by law for their services as county commissioners, which fees shall be paid by the treasurer of the county upon the warrant of the clerk of the drainage board out of the drainage fund hereinafter provided for; but they shall in no case draw pay for the same day in both capacities. The chairman of the board of county commissioners shall be *ex officio* chairman of the board of drainage commissioners. (*Id.* § 2.)

***§ 63³⁷. Auditor to be clerk of board—Duties—Extra compensation.**

The county auditor of each county so organized into a drainage district shall be the clerk of the board of drainage commissioners of his county. He shall be the custodian of all books, papers, and records pertaining to drainage matters in his county, and shall keep, in a well-bound book to be known as the "Drainage Record," a record of all the proceedings of the board of drainage commissioners of his county, and shall enter at length therein all orders and findings of the drainage commissioners pertaining to the subject of drainage. In addition to the salary allowed him by law as county auditor he shall be paid for his services as clerk of such board of drainage commissioners, three dollars per day for each day such board shall be in session, ten cents per folio for the records he is required to make by the provisions of this act, five cents for filing each petition, order, or other paper which he shall be required to file and preserve as such clerk, and a sum equal to one per cent. in each year of the amount raised by special assessment for drainage purposes in his county for such year as compensation for all other services herein required of him; all such fees and compensation to be audited and allowed to him by the drainage board of his county, and paid out of the drainage fund hereinafter provided for. (*Id.* § 3.)

***§ 63³⁸. County treasurer to be treasurer of district—Bond—Care of funds—Compensation.**

The county treasurer of each county so organized into a drainage district shall be the treasurer of such district. He shall give a bond to the board of drainage commissioners of his county with sufficient sureties, to be approved by such board, and in such amount as they shall determine, but in no case for less than the whole amount of money likely to come into his hands in any one year as such treasurer. Said bond shall be conditioned that such treasurer will faithfully discharge the duties of his office, and that he will receive, safely keep, and pay over, according to law, all moneys which shall come into his hands as treasurer of such drainage district. He shall receive and safely keep

all moneys directed by law to be paid him as such treasurer and shall pay out the same only on the warrant of the drainage clerk or order of the board of drainage commissioners signed by the chairman and attested by the clerk thereof. He shall keep the funds of the drainage district separate and distinct from those of the county, and keep proper accounts of the same in suitable books to be provided by the drainage commissioners, and they may at any time require the treasurer to exhibit and count in their presence the funds in his hands belonging to the drainage district when the board deem it advisable. They may make the same arrangements for the deposit of the funds of the drainage district with any bank or banks as are authorized by law for such deposits of county funds. As compensation for the services required of him by this act the treasurer shall be allowed two per cent. on all sums of money coming into his hands as such treasurer from the proceeds of the assessments provided for in this act, the same to be audited and allowed to him out of the drainage fund of his county by the board of drainage commissioners. (*Id.* § 4.)

***§ 63³⁹. Audit of claims.**

The board of drainage commissioners shall be a board of audit for their drainage district, and shall audit and allow all legal accounts, claims, and demands against their drainage district, except their own compensation. Before any such account, claim, or demand shall be audited or allowed, it shall be itemized, and duly verified by the claimant, his agent or attorney, to the effect that the same is a just and true demand against such drainage district, that the same is due, and that no part thereof has been paid. (*Id.* § 5.)

***§ 63⁴⁰. Furnishing books, records, etc.**

It shall be the duty of the board of county commissioners of any county so organized into a drainage district to supply at the expense of their county the clerk of the board of drainage commissioners and the treasurer of the drainage district with such records, account-books, and stationery as those officers may require for keeping the records and accounts and transacting the necessary business of the drainage district of the county. (*Id.* § 6.)

***§ 63⁴¹. Petition for formation of subdistricts—Bond.**

In any county organized into a drainage district under the provisions of this act, a majority in number of the owners of land within a tract or territory in such county, having a common drainage outlet, who own one-third or more in area of the lands to be drained or benefited, and who desire to construct a drain or drains, ditch or ditches, embankment or embankments, or to establish in said tract having such common drainage outlet a combined system of drainage and protection from overflow for agricultural and sanitary purposes, and maintain the same by special assessments upon the lands and property benefited thereby, may file with the clerk of the board of drainage commissioners of the county in which such lands are situated a petition signed by them, setting forth a general description of the lands proposed to be effected, with the names of the owners, and their post-office address when known, a general description of the proposed work, and that the petitioners desire that a sub-drainage district may be organized, embracing the lands therein mentioned for the purpose of constructing, repairing, and maintaining a drain or drains, ditch or ditches, embankment or embankments, or a combined system of drainage and protection from overflow, or all or either, within said tract for agricultural and sanitary purposes, by special assessments upon the lands and property to be benefited thereby. Such petition shall be accompanied by a bond signed by two or more freeholders in the sum of two hundred and fifty dollars, payable to the board of drainage commissioners of the drainage district in which such tract is situated, which bond shall be approved by said clerk, and conditioned to pay all expenses of the proceedings under

such petition in case said board of drainage commissioners shall fail to establish the sub-drainage district prayed for in said petition. (1887, c. 98, § 7.)

***§ 63⁴². Same—Filing—Meeting of Board—Notice.**

It shall be the duty of said clerk to receive and file said petition and bond in his office, and he shall thereupon call a meeting of the board of drainage commissioners of his drainage district, to be held at his office not more than thirty nor less than twenty days thereafter. The clerk shall give notice of the time and place of such meeting by causing written or printed notices signed by him to be posted in at least three different places within such proposed sub-drainage district, and by mailing a copy of such notice to each of the town clerks and members of the town boards of supervisors of each town in which any of the lands proposed to be included in such sub-drainage district are situated, at least ten days prior to the time of such meeting. He shall also file a copy of such notice in his office, and record the same in the drainage record. (*Id.* § 8.)

***§ 63⁴³. Same—Hearing—Evidence—Admitting additional petitioners—Adjournments.**

It shall be the duty of the board of drainage commissioners of such drainage district to meet at the time and place mentioned in such notice, and the clerk shall lay before them the said petition and all other papers in the case, and they shall thereupon proceed to ascertain whether said petition has the signatures of the required number of owners of land as required by this act, and if such signers are owners of one-third or more in area of the lands situated in said proposed sub-drainage district; and the affidavits of two or more credible signers of said petition, that they have examined the same, are acquainted with the locality of the proposed sub-drainage district, and that they believe that said petition is signed by the required number of owners of lands in said proposed sub-drainage district, and that the said signers are the owners of one-third or more of the lands therein, may be taken as *prima facie* evidence of the facts set forth in said petition as against the owners of the lands in the proposed sub-drainage district and as conclusive evidence against all persons signing said petition, of all the facts set forth in said petition, and of the necessity for the organization of such proposed sub-drainage district thereunder. At such meeting any other owners of lands within said proposed sub-drainage district shall be permitted to sign said petition, if they so desire. Any person or persons owning land in said proposed sub-drainage district, whose names do not appear upon said petition, may at said time and place appear by himself or attorney and controvert any material statements in said petition; and for the purpose of such hearing the board shall have full power to administer oaths, to examine all witnesses produced, and shall decide all questions that may arise at such hearing at such time and place, and make a written statement of their findings to be filed with the clerk and recorded in the drainage record. If they find that the petition has not been signed as herein required, they shall dismiss the same. For cause shown, the board may adjourn from day to day until such hearing is concluded. (*Id.* § 9.)

***§ 63⁴⁴. Viewers—Appointment—Survey.**

If said board of drainage commissioners shall find in favor of said petition, they shall immediately by order appoint three disinterested persons, residents of the county in which such proposed sub-drainage district is situated, as viewers, to meet at a time and place specified in said order preparatory to commencing their duties as herein specified. It shall be the duty of said clerk thereupon to deliver to said viewers a certified copy of the petition and the order of the board thereon, who shall proceed at the time set in said order, with a surveyor, who shall be a civil engineer, and who shall make an ac-

curate survey of the proposed work, a map or plat of his survey, and a report of all estimates required of said viewers as a basis of their report to be made to the board of drainage commissioners as herein provided. (*Id.* § 10.)

***§ 63⁴⁶. Same—Power to alter boundaries.**

The said viewers, while such survey and plat are being made, or after the same have been completed, shall have power to change the boundaries of such proposed sub-drainage district from the boundaries given in the petition, so as to include lands not embraced, or exclude lands taken into said proposed sub-drainage district, and shall permit additional signatures to be made to the petition by any person or persons owning land in, or owning land desired to be taken into, such proposed sub-drainage district, to the end that a majority of the owners of the land in the proposed sub-drainage district as finally to be organized, and who shall be owners in the aggregate of one-third or more in area of such land, shall have signed the petition, which facts said viewers shall find, and put such finding in writing, and the same shall be filed with the clerk, who shall enter the same in his drainage record, which finding shall be conclusive. (*Id.* § 11.)

***§ 63⁴⁶. Survey—Statement of benefits and damages, etc.**

If the viewers, after examination of the proposed work and consideration of the report of the engineer, shall find in favor of the proposed work, and determine to report in favor of the organization of the proposed sub-drainage district, they shall, together with said engineer, make an accurate survey of the proposed work, and they shall cause stakes and monuments consecutively numbered to be set along the line or lines of the proposed drain or drains, ditch or ditches, embankment or embankments, at each one hundred feet, and they shall make a computation of the total number of cubic yards of earth to be excavated and removed from such drain or drains, ditch or ditches, or the total number of cubic yards of earth to be used in raising such embankment or embankments, and a detailed estimate of the cost of the whole work. They shall accurately describe, as the same is described upon the county tax duplicate, each parcel of land to be assessed for the construction of the proposed work, giving the number of acres in each tract assessed, and the estimated number of acres benefited, the amount that each tract of land will be benefited or damaged by the construction of said work, and the amount that each tract is assessed therefor, and they shall in tabular form give the depth of the cut or height of the embankment, width at the bottom and width at the top, at each one hundred foot stake or monument of such drain, ditch, or embankment; and said viewers shall also ascertain and give the names of the owners of the lands that are assessed for the construction of such work, so far as they can be ascertained upon reasonable inquiry and search of the public records of the county in which such lands are situated. (*Id.* § 12.)

***§ 63⁴⁷. Liability to assessment—Estimation of benefits.**

All lands owned by any person or persons, or by any corporation except the state of Minnesota or the United States, which are benefited by any of such work, shall be assessed in proportion to the benefits for the construction thereof, whether such work passes through or is partially located upon said lands or not; and the viewers, in estimating the benefits to lands not traversed by any drain, ditch, or embankment, shall not consider what benefits such lands will receive after some other drain, ditch, or embankment shall be constructed, but only the benefit that will be received by reason of the drain, ditch, or embankment then contemplated as it affords an outlet for the drainage of said lands or protection to the same from overflow; and any owner of land within the proposed sub-drainage district, who signed the petition for the organization of such proposed sub-drainage district, shall be for ever barred from objecting that the lands of such owner situated in such sub-drainage district

are not subject to assessments for benefits as provided in this act. (1887, c. 98, § 13.)

***§ 63⁴⁸. Same—Railroad companies.**

Whenever any railroad company is benefited by such drain, ditch, or embankment, such railroad shall be assessed its just proportion of benefits, the same as lands benefited are assessed, which assessments shall be collected from the owner of such railroad in the same manner as personal property taxes are collected by law (*Id.* § 14.)

***§ 63⁴⁹. Same—Highways.**

Whenever any public highway is benefited by such drain, ditch, or embankment, the county or town which is by law charged with the duty of keeping such highway in repair shall be assessed with the amount of benefits accruing to such highway by reason of such drain, ditch, or embankment, and the amount thereof shall be collected by a general tax upon such town or county by the proper officer, and, when collected, shall be paid into the treasury of the drainage district of the county, for the benefit of the sub-drainage district to which it belongs. (*Id.* § 15.)

***§ 63⁵⁰. Damages to be estimated and added to cost.**

The viewers shall estimate the damage to each tract of land, railroad, or other property over and upon which any portion of any drain, ditch, or embankment may be located, and the amount of such damages shall be added to the estimated cost of the proposed work, and be included in the assessment to be made therefor. (*Id.* § 16.)

***§ 63⁵¹. Diverting line of proposed drain, etc.**

The viewers, if they find the line of any proposed drain, ditch, or embankment is not such as is best to effect the object sought or that the object of the proposed work can be effected as well in connection with a ditch or embankment necessary for the improvement of any highway already established, may proceed to establish the line of such drain, ditch, or embankment in connection with such highway-ditch, drain, or embankment already constructed, and make the same a part of the proposed work, and the county or town which has constructed such highway-drain, ditch, or embankment shall be allowed a proper credit for the same in the manner hereinafter provided; and in all cases in which the line of any drain, ditch, or embankment is located along any highway already established, such work shall not be so constructed as to interfere with the free use of such highway for all purposes of travel thereon. (*Id.* § 17.)

***§ 63⁵². Manner of making assessments.**

The viewers, in making the special assessments for benefits, shall proceed by classifying the lands in the proposed sub-drainage district in tracts of forty acres, more or less, according to the legal or recognized subdivisions on a graduated scale, to be numbered according to the benefits to be received by the contemplated work; and whenever any railroad or public highway is benefited such benefit shall be assessed to the same upon the same scale as lands are assessed as near as practicable. The tracts of lands which will receive the most and about equal benefits shall be numbered one hundred, and such as all adjudge to receive less benefits shall be marked with a less number denoting its per cent. of benefits. This classification, when established as hereinafter provided, shall remain as a basis for such assessments as may be needed for the lawful and proper uses of such sub-drainage district. When such classification is completed, it shall be properly tabulated and shown by a map, which tabulation and map shall be made a part of the viewers' report hereinafter provided for. (*Id.* § 18.)

***§ 63⁵³. Damages—Payment—Report of viewers.**

Every person or persons or corporation owning lands over or upon which any drain or drains, ditch or ditches, embankment or embankments, shall be constructed under the provisions of this act shall be allowed adequate damages and compensation for the taking of the lands upon which such drain or drains, ditch, or ditches, embankment or embankments, are located, and for the injuries to such lands caused thereby; and the board of county commissioners of the county in which such lands are situated shall order such damages to be paid out of the county treasury to the person or persons or corporation entitled thereto, and the amount of damages to which they are entitled shall be specified by said viewers in their report to the board of drainage commissioners as herein provided; and the county shall be reimbursed for such payment out of the drainage fund of the sub-drainage district for and on account of which such damages and compensation are paid. (*Id.* § 19.)

***§ 63⁵⁴. Viewers' report—Contents.**

It shall be the duty of said viewers to perform the duties enjoined upon them by this act with all convenient speed and diligence, and within fifteen days after the completion thereof to make and file a full report of all their proceedings under their appointment, verified upon their oaths, with the clerk of the drainage district. If said viewers report in favor of the proposed work, and that the same is of public benefit and utility, and conducive to the public health, such report shall contain an accurate map or plat of the proposed work showing the lines thereof, and the stakes and monuments along the same; the width of the strip of land along the line of each drain, ditch, or embankment necessary to be taken and used in the construction of such drain, ditch, or embankment; a computation of the number of cubic yards of earth to be excavated and removed upon each one hundred feet as shown by such stakes and monuments from such drain or drains, ditch or ditches; and the number of cubic yards of earth to be used upon each one hundred feet as shown by such stakes and monuments in raising such embankment or embankments; and the total number of cubic yards of earth to be excavated and removed to complete the whole of the proposed work; and the detailed estimate of the cost of the whole work. Said report shall also contain an accurate description, as the same is described upon the county tax duplicate of each parcel of land benefited or damaged by the proposed work, giving the number of acres in each tract, and the estimated number of acres in each tract benefited or damaged, as the case may be; the amount that each tract of land will be benefited or damaged by the construction of the proposed work; the amount that each tract is assessed therefor; and the scale of per centage of benefits as provided for in section eighteen of this act; also the depth of the cut or height of the embankment; width at the bottom and width at the top at each one hundred foot stake or monument of such proposed drain, ditch, or embankment; the names of the owners of the lands affected by the proposed work so far as they can be ascertained upon reasonable inquiry; all of which shall be in tabular form. In case the viewers find the proposed work not of public benefit or utility, they may report against the same, in which case their report need only state that they find the proposed work not to be of public benefit or utility. (*Id.* § 20.)

***§ 63⁵⁵. Viewers—Power of majority—Oath—Drains in several counties.**

A majority of the viewers shall be competent to perform the duties required of them by this act: *provided*, that, for work extending into more than one county, there shall be present a majority from each county interested; and any person appointed a viewer under the provisions of this act shall qualify by taking and subscribing an oath to faithfully discharge the duties of a viewer,

as prescribed by this act; and, while in the discharge of their duties, they shall have the right to enter upon any lands within the proposed sub-drainage district for the purpose of making all surveys and estimates required of them. (1887, c. 98, § 21.)

***§ 63⁵⁶. Meeting of board—Notice.**

It shall be the duty of the clerk of such drainage districts, on said report being filed, if it be in favor of the proposed work, to call a meeting of the board of drainage commissioners of such drainage district to be held at his office not more than forty, nor less than thirty, days after said report had been filed in his office. The clerk shall give notice of the time and place of such meeting by causing written or printed notices, signed by him as clerk, to be posted in at least six different places within such proposed sub-drainage district, and by mailing a copy of such notice to each town clerk and member of the town board of supervisors of each town in which any of the lands proposed to be included in such sub-drainage district are situated, and to all non-resident owners of any of said lands, whose post-office address is known to him, or can be ascertained in the office of the auditor or treasurer of such county, at least twenty days prior to the time of such meeting. Said notice shall contain a description of the lands by sections proposed to be included in such sub-drainage district and a statement that the viewers' report is filed with the clerk; that the plat and description of the proposed work is on file with said report; and that at the time and place mentioned in said notice the said report of the viewers will be acted upon by the board of drainage commissioners at which time and place any person interested may appear and contest the report of said viewers upon any and all matters therein affecting his interests. (*Id.* § 22.)

***§ 63⁵⁷. Same—Hearing on report.**

It shall be the duty of the board of drainage commissioners of such drainage district to meet at the time and place mentioned in said notice, and the clerk shall lay before them the said report of the viewers for their consideration. They shall first ascertain if proper notice has been given of their meeting, and, if they so find, they shall make such finding in writing, and cause the same to be entered in the drainage record. If they find that such notice has not been properly given, they shall adjourn to such time as will give the clerk opportunity to complete service of notice of such meeting, and the time to which the same has been adjourned. After the board shall have found that due notice of the time and place of their meeting has been given, they shall proceed to consider the report of said viewers. If any objections are made to the report of the viewers, and any person or persons or corporation appear for the purpose of contesting said report, the board shall proceed to hear and determine the same, and for that purpose the board shall have full power and authority to administer oaths, to examine all witnesses produced, and to decide all questions arising upon the consideration of said report, and the objections made thereto by any person or persons interested, and the board may adjourn from day to day until such hearing is completed. (*Id.* § 23.)

***§ 63⁵⁸. Same—Order on report.**

If, upon the hearing, it shall appear that the report ought to be modified in any particular, the board shall modify the same to conform to the equities in the premises. If, after hearing and determining all questions arising thereupon, the board is of the opinion that the sub-drainage district petitioned for should be organized, they shall make an order confirming the report of said viewers as made or as modified, if any modification has been made by the board, and organizing the land as described in said report into a sub-drainage district to be known as "Sub-Drainage District Number _____, of the _____ County Drainage District," which order shall be entered in the drainage rec-

ord. If, after such hearing, the board is of the opinion that such sub-drainage district should not be organized, it shall make an order dismissing the proceedings, which order shall be entered in the drainage record. (*Id.* § 24.)

***§ 63⁵⁹. Appeal—Questions thereon—Bond—Transcript.**

Any person or persons or corporation owning any real estate within such proposed sub-drainage district aggrieved thereby may appeal to the district court of the proper county from such order, and upon such appeal any or either of the following matters may be determined: *First.* Whether the assessment made for the construction of the proposed work upon any tract of land is in proportion to the benefits to be derived therefrom. *Second.* The amount of damages allowed to any person or persons or corporation. The party appealing shall file with the clerk of the drainage district an appeal-bond in the sum of five hundred dollars, with at least two freehold sureties, to be approved by said clerk, conditioned that he will duly prosecute such appeal, and pay all costs that may be adjudged against him in the district court: *provided,* that such appeal and appeal-bond shall be filed with the clerk of such drainage district within thirty days after such order of the board of drainage commissioners is made; and after the lapse of thirty days from the making of such order no appeal can be taken. Upon any appeal being taken, the clerk of said drainage district shall within twenty days thereafter make a complete transcript of the proceedings had before said board of drainage commissioners and of such appeal and appeal-bond, and certify the same, together with a transcript of all papers filed in his office pertaining to the organization of the proposed sub-drainage district, to the clerk of the district court. (*Id.* § 25.)

***§ 63⁶⁰. Same—Trial.**

Said appeal shall be placed upon the court calendar, and brought on for trial in the same manner and under the same rules as appeals from justice court are placed upon the calendar, and brought on for trial, and shall be tried and disposed of in the same manner as other civil actions: *provided,* that the party appealing may waive a jury trial, and the appeal shall thereupon be tried by the court. (*Id.* § 26.)

***§ 63⁶¹. Same—Judgment—Appeal to supreme court.**

If the decision upon the trial of such appeal shall be in favor of the appellant, judgment shall be rendered modifying or changing said report so as to fully protect the appellant's rights in the premises, either as to assessments or damages, and the drainage district shall pay the costs of the appeal; but if the decision be against the appellant, judgment shall be rendered dismissing the appeal, and that the appellant pay all costs thereof; either party to such appeal to have the same right to appeal to the supreme court as parties in ordinary civil actions. (*Id.* § 27.)

***§ 63⁶². Compensation for services.**

The viewers shall receive as compensation for their services three dollars per day for the time actually engaged in performing their duties under this act, and the engineer employed by said viewers shall receive five dollars per day for his services. Such compensation to be paid out of the drainage fund of such subdistrict upon the order of the board of drainage commissioners. (*Id.* § 28.)

***§ 63⁶³. Construction of drain—Supervisors.**

Upon making and filing the order confirming the report of the viewers, and organizing such sub-drainage district, the board of drainage commissioners shall have full power and authority to cause to be constructed the drain or drains, ditch or ditches, embankment or embankments, specified in said re-

making use of such drains or ditches as outlets for their private drains or ditches do so in a proper manner, and so as not to injure the public drains or ditches. (1887, c. 98, § 35.)

***§ 63⁷⁰. Report of supervisors.**

Between the first and third Mondays of October in each year the supervisors of each sub-drainage district shall make and file with the clerk of the drainage district of their county a report of the condition of the drains, ditches, and embankments in their care, of all work done during the year by them upon the same, and the cost thereof, and an estimate of such work, and the cost thereof, as in their judgment will be required upon the same for the ensuing year. (*Id.* § 36.)

***§ 63⁷¹. Drainage board—Annual estimate—Order for assessment.**

At the annual meeting of the board of drainage commissioners of each drainage district in which one or more sub-drainage districts have been organized as herein provided, such board shall make a careful estimate of the amount of money that will be required for the current expenses of such sub-drainage district under their control, and to cover any unpaid expenses or charges already incurred on account thereof; also to meet the interest on any bonds issued on account of and for the benefit of such sub-drainage district, and to provide a sinking fund for the payment of the principal of such bonds, and shall thereupon make an order directing the assessment of the amount of such estimate upon the lands subjected to assessment in such sub-drainage district. Such order shall be in writing, and signed by at least a majority of the board, and may be substantially in the following form:

“The board of drainage commissioners of _____ county _____ drainage district do hereby order and determine that the sum of _____ dollars be levied as a special assessment upon the lands and property subjected to assessment for benefits in sub-drainage district No. _____ of _____ county drainage district.

Dated _____.

Signed { _____,
 _____,
 _____.
 Commissioners.”

Such order shall be recorded in the drainage record. (*Id.* § 37.)

***§ 63⁷². Assessment roll.**

The clerk of the board of drainage commissioners shall thereupon make and attach to said order an assessment roll of the sub-drainage district to which the order relates. Such assessment roll shall contain a description of each tract of land subjected to assessment in such sub-drainage district, the name of the owner, if known, its acreage, the percentage of benefit it receives as the same has been fixed and determined, in accordance with the provisions of this act, and the amount of assessment against each tract of land, as per such percentage. If any railroad or other property within such sub-drainage district is benefited, such assessment roll shall contain the amount that such railroad or other property is to be assessed according to the scale of percentage fixed upon the same as hereinbefore provided. Such assessment roll, when completed, shall be attested by such clerk, and filed in the office of the county auditor of the county in which such drainage district is situated, on or before the first Monday in November of each year. (*Id.* § 38.)

***§ 63⁷³. Assessments—Collection.**

Upon such assessment roll being filed in his office the county auditor of such county shall thereupon enter upon the tax duplicate of the current year,

against the respective tracts of lands so assessed, the amount of such assessment as shown by such assessment roll, and shall enter the assessment against any railroad or other property upon the appropriate tax-roll, so that the same may be collected in the manner provided by this act. Such assessment entered upon the tax duplicate shall be collected and the payment thereof enforced in the same manner and as a part of the total tax assessment levied against each tract of land for that year, and the assessment against any railroad company shall be collected from the owner of such railroad in the same manner as personal property taxes are collected from individuals. All such assessments, when collected, shall be paid over to the treasurer of such drainage district and by him credited to the sub-drainage district to which the same may belong. (*Id.* § 39.)

***§ 63⁷⁴. Estimate of expense of construction — Order for issue of bonds.**

As soon as the board of drainage commissioners have organized any sub-drainage district, and ordered work done therein, they shall make a careful estimate of the total expense thereof, including the preliminary costs already incurred the construction of the work ordered, and the cost of the supervision thereof. They shall then order the issuance and negotiation of the bonds of their drainage district in an amount equal to the amount of such estimate, and ten per cent. of such estimate in addition thereto. In such order they shall fix the time which such bonds shall run, which shall be not less than twenty, nor more than thirty, years. Such bonds shall bear interest, payable annually, at the lowest attainable rate, but in no case shall the interest be at a higher rate than seven per cent. per annum. Such order and estimate shall be in writing, signed by the chairman, and attested by the clerk, and recorded in the drainage record. (*Id.* § 40.)

***§ 63⁷⁵. Bonds—Negotiation—Payment—Lien.**

It shall be the duty of the chairman of the board of drainage commissioners, and the clerk and treasurer of the drainage district, to negotiate all bonds ordered issued as above provided. They shall negotiate such bonds, if practicable, within such time as will make the proceeds thereof available for the prompt payment for the work on account of which the same are issued. All such bonds shall be issued in the name of the board of drainage commissioners of ——— county drainage district, in the state of Minnesota; shall specify that they are issued in accordance with the provisions and pursuant to the authority of this act, naming it by its title and date of approval, and the number of the sub-drainage district on account of which the same are issued; and shall be signed by the chairman of the board of drainage commissioners, and the clerk thereof. Such clerk shall, upon signing said bonds, enter in the drainage record a description of each bond, its number, date, rate of interest, the time when it is payable, and the number of the sub-drainage district on account of which it is issued. The treasurer shall, on demand, pay the interest and principal of such bonds as the same becomes due, and payable so far as the funds in his hands for that purpose shall permit. All assessments made as herein provided, for the payment of the principal or interest, or both, shall be used for no other purpose until such interest and principal have been paid in full, and such bonds shall, so long as the same remain unpaid, be a perpetual lien upon the lands subjected to assessments for benefits under this act in the sub-drainage district on account of which such bonds are issued; and no bond issued under the provisions of this act shall be negotiated or sold for less than its face or par value: *provided*, that such bonds shall not be construed to constitute a lien on any tract or subdivision of land to any greater amount than the amount of the benefits assessed against such subdivision or tract, pursuant to the provisions of this act. (*Id.* § 41.)

***§ 63⁷⁶. Enlargement of drains, etc.**

Whenever the supervisors of any sub-drainage district find that any ditch, drain, embankment, grade, or other work constructed in this district by order of the drainage commissioners requires material enlargement or extension, they shall make a report in writing to the commissioners, setting forth the necessity for such extension or enlargement, and, in general terms, its extent and character, and, if affecting any lands not already in the sub-drainage district, a description of such lands, and the names of the owners of the same, with the post-office address of each so far as they can ascertain the same. Such report, when filed with the clerk of the drainage district, shall be treated as a petition for the performance of the work described therein, and the same proceedings, as nearly as may be, shall be had thereon as in case of the petition for the work of which this proposed enlargement or extension is made, except that, should the commissioners order the construction of such enlargement or extension, such order shall not create a new sub-drainage district, but instead shall attach the new territory benefited, if any, to the existing sub-drainage district, and shall provide for a separate fund of such sub-drainage district from which the costs of such enlargement or extension shall be paid, and for separate assessments therefor on the basis of the benefits of such enlargement or extension, in case the benefits are found to vary from those of the original work of which the new is an enlargement or extension. (1887, c. 98, § 42.)

***§ 63⁷⁷. Drainage board—Power of majority.**

A majority of the board of drainage commissioners shall be competent to perform any of the duties required of them by this act, but all orders made by them shall be only on the affirmative vote of the majority of the whole board. (*Id.* § 43.)

***§ 63⁷⁸. Injury to drain, etc.—Penalty.**

Any person or persons who shall willfully and unlawfully fill up, injure, or destroy any drain, ditch, or embankment constructed under the provisions of this act, or shall willfully and unlawfully prevent, hinder, or delay the construction of any such drain, ditch, or embankment, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any justice of the peace or other court having jurisdiction, shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail not more than ninety days, or both, as the court may determine. (*Id.* § 44.)

***§ 63⁷⁹. Sub-drainage districts in several counties.**

Sub-drainage districts extending into more than one county may be organized whenever this act has been put in operation in all of such counties as provided by section five. In such case the petition for the formation of such sub-drainage district shall be addressed to the commissioners of the drainage district of the county in which the greatest part of the lands to be affected are situated, and shall be signed by a majority of the adult owners of the lands situated in each of said counties and proposed to be embraced in such sub-drainage district, and such commissioners of the drainage district of the county in which the greatest part of the lands of the proposed sub-drainage district are situated shall have authority to organize such sub-drainage district, and to exercise control over it, to the same extent, and in the same manner, as in case where the sub-drainage district is all in one county. But copies of all orders in relation to such sub-drainage district shall be filed with the clerk of the drainage district of each of the counties into which it extends; and in making assessments the lands in each county shall be put upon separate rolls, and reported to the auditor of the respective counties for collection and payment to the treasurer of the district in which the greatest part of such sub-

district is situated. All appeals or suits relating to such sub-drainage district shall be to and brought in the district court of the county in which the greatest part of such sub-drainage district lies. (*Id.* § 45.)

***§ 63⁸⁰. Drainage districts—Liability for negligence, etc.**

Each drainage district shall be liable for any damages which any person or persons or corporation may sustain by reason of negligent or imperfect manner in which any drain, ditch, or embankment is constructed within such drainage district under the provisions of this act, and such damages may be recovered in an action at law against such drainage district in its corporate name, in a court of competent jurisdiction: *provided*, that the amount of the judgment recovered in any such action shall be assessed in the same manner as other assessments herein provided for upon the lands in the sub-drainage district in which the cause of action arose. (*Id.* § 46.)

***§ 63⁸¹. Officers—Neglect of duty—Mandamus—Liability for damage.**

If the county auditor, county treasurer, or other county officers required to perform any duties under this act relating to the levying and collecting of assessments, shall neglect or refuse to perform such duties, they may be compelled to perform the same by *mandamus*, and they shall be liable to any person or persons or corporation for any damage that such person or persons or corporation may sustain by reason of such neglect or refusal. (*Id.* § 47.)

***§ 63⁸². Lien of assessments—Construction of act—Conclusiveness of orders.**

The amount of assessments made by the viewers and confirmed by the board of drainage commissioners shall be a lien upon the lands assessed from the date of the order of the board of drainage commissioners organizing the sub-drainage district, and such order, together with the report of the viewers, shall be notice to all the world of the existence of such lien; and this act shall be liberally construed, and such order shall be conclusive that all prior proceedings were regular and according to the provisions of this act. (*Id.* § 48.)

***§ 63⁸³. Railroad companies—Signature to petition.**

Any railroad company or other corporation owning lands or other property that will be affected by the organization of any sub-drainage district, as provided for in this act, may sign the petition for the organization of such sub-drainage district, by such officer or officers as are by the charter or by-laws empowered to make contracts for such railroad company or other corporation. (*Id.* § 49.)

***§ 63⁸⁴. Surplus—Investment.**

Whenever the amount of money in the treasury of any drainage district belonging to the sinking fund of any sub-drainage district is sufficient to warrant the investment thereof, the board of drainage commissioners shall have power to invest the same in the bonds of any county, township, or school-district within the state of Minnesota, and all interest received from such investment shall be credited to the sinking fund of such sub-drainage districts. (*Id.* § 50.)

***§ 63⁸⁵. Officers—Interest in contracts prohibited.**

No member of the board of drainage commissioners, viewer, engineer, or supervisor shall be personally interested in any contract for the construction of any work done under the provisions of this act, and any contract in which any such commissioner, viewer, engineer, or supervisor is personally interested, either directly or indirectly, as a contractor, shall be void, and the contractor or contractors shall forfeit all pay for any work done under such void contract. (*Id.* § 51.)

TOWN DRAINS.*

***§ 63⁸⁶. Town supervisors — Power to construct drains — Petition.**

The supervisors of any town may lay out and construct a ditch within the limits of such town for the purpose of drainage, upon a petition of not less than six legal voters who own real estate, or who occupy real estate under the homestead and pre-emption law of the United States, or under contract from the state of Minnesota, within one mile of the ditch to be so constructed. (1887, c. 99, § 1.)

***§ 63⁸⁷. Petition—Posting—Contents.**

Whenever any number of legal voters, as aforesaid, determine to petition the supervisors for the laying out or construction of a ditch, they shall cause a copy of their petition to be posted up in three of the most public places of the town twenty 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 is proposed to be constructed. (*Id.* § 2.)

***§ 63⁸⁸. Supervisors — Notice of meeting—Contents—Posting.**

Upon receiving such petition the supervisors shall, within thirty 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 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 supervisor making such service. The supervisors shall also cause copies of such notice to be posted in three public places in said town at least ten days previous to such meeting. Every such notice shall specify as nearly as practicable the ditch proposed to be laid out or constructed, and the several tracts of land through which the same may pass. (*Id.* § 3.)

***§ 63⁸⁹. Same—Proceedings—Order—Filing papers.**

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, 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 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 days, nor until a 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 days,

*"An act to provide for constructing ditches by towns for the purpose of drainage." Approved March 8, 1887.

they shall be deemed to have decided against such petition; but if such order is confirmed and such order, together with the award, has been recorded by said town clerk, the same shall be sent by him to the county auditor, who shall file and preserve all such papers thus transmitted to him. (*Id.* § 4.)

***§ 63⁹⁰. Order for construction—Effect.**

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. (*Id.* § 5.)

***§ 63⁹¹. Assessment of damages and benefits—"Owners" defined.**

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 claim to damages, the same shall be assessed in the manner hereinafter prescribed, before the same is open 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 claims 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, or 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 advantages 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 (*Id.* § 6.)

***§ 63⁹². Appeals.**

The several acts and provisions of the General Statutes of One Thousand Eight Hundred and Seventy-Eight, 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. (*Id.* § 7.)

***§ 63⁹³. Construction of drains—Powers of supervisors.**

Whenever the supervisors shall have ordered the laying out or construction of a ditch in conformity with the provisions of this act, the same shall be opened and constructed under the direction of the supervisors of such town, the expense thereof to be paid by the town in which such ditch is situated. Whenever the supervisors have laid out any ditch in conformity with the provisions of this chapter, and their decision has not been appealed from, they shall have a right to go upon any land through which the same is to be constructed, for the purpose of constructing or opening the same. (*Id.* § 8.)

CULTIVATION OF TIMBER AND HEDGES.

***§ 70. Forest trees—Cultivation—Compensation.**

That every person who has heretofore or who shall hereafter plant and cultivate one acre and not more than ten acres of prairie land with any kind of forest trees except black locust, and keep the same in a thrifty and growing condition for a period of six years, and every person who shall plant, cultivate, protect, and keep in a thrifty, growing condition one-half mile or more of such forest trees along any public highway, shall be entitled to receive compensation at the rate of three dollars annually for each acre of grove planted, and two dollars annually for each half mile of such line of trees for the period of six years. To entitle any person to compensation under this act for trees planted by the acre, such person shall plant or grow not less than twenty-seven hundred trees on each acre in the first instance, and cultivate, maintain, and keep in a thrifty, growing condition at least thirteen hundred trees on each acre during the first and second years next succeeding the year of planting, and maintain in a thrifty and growing condition for the remaining three years thereafter not less than six hundred trees on each acre, and to entitle any person to compensation for the planting, protecting, cultivating, and maintenance of trees along the public highway, such person shall plant the trees not more than eight feet apart, cultivate the same the first and second years after the year of planting, and maintain the same in a thrifty, growing condition, not more than eight feet apart, for the remaining three years: *provided*, that the planting of cuttings or sowing of seed shall be construed to be a planting of trees within the meaning of this act, but no person shall receive compensation for the year in which such cuttings are planted, or tree seeds are sown; and the years succeeding the sowing of such tree seed and planting of cuttings shall be construed to be the six years for which compensation is granted under this act: *provided, also*, that this act shall not apply to any railroad company planting trees within two hundred feet of its track, nor to any person planting trees in compliance with the requirements of the act of congress entitled "An act to encourage the growth of timber on western prairies," approved March third, one thousand eight hundred and seventy-three, or an act amendatory thereof. (1873, c. 19, § 1, *as amended* 1885, c. 54.)

[The amendment of 1885 is entitled "An act to amend section seventy of chapter one hundred and twenty-four, Statutes of One Thousand Eight Hundred and Seventy-Eight, as amended by chapter forty-four of General Laws of One Thousand Eight Hundred and Eighty-Three, relating to timber culture," and enacts "that section seventy of chapter one hundred and twenty-four, General Statutes of One Thousand Eight Hundred and Seventy-Eight, as amended by chapter forty-four, General Laws of One Thousand Eight Hundred and Eighty-Three, be, and the same is hereby, amended so as to read as follows:" etc. But the latter act amends § 1, c. 151, Gen. Laws 1881, which appears to be an independent act. See *post*, *§§ 73b-73g.]

The act of 1873 supersedes chapter 30, Gen. Laws 1871. *Smith v. Board of County Com'rs*, (Minn.) 35 N. W. Rep. 383.

***§ 73a. Application for bounty—Extension of time.**

Any person who has complied in full with all the requirements of the law in force upon the planting of timber and shade trees in this state, but who have through mistake, inadvertence, inability, or otherwise have failed to measure, plat, and lay out such land so planted to trees, and make the necessary application to obtain a bounty therefor, as required by law, may so measure, plat, and lay out said land, and make said application for bounty as aforesaid, at any time previous to the thirty-first day of July, one thousand eight hundred and seventy-nine, which said proceedings shall be subject to all the laws

now in force upon this subject, and said person, when so complying with the foregoing provisions, shall be entitled to the same bounty as if said application had been made within the time heretofore required by law. (1879, c. 96, § 1.)

***§ 73b. Bounty for tree-planting.**

That every person who has heretofore or shall hereafter plant and cultivate one acre and not more than ten of prairie land with any kind of forest tree, except black locust, and keep the same in a thrifty growing condition for a period of six years, and every person who shall plant, cultivate, protect, and keep in a thrifty growing condition for the same period one-half mile or more of such forest trees along any public highway, shall be entitled to receive compensation at the rate of three dollars annually for each acre of grove planted, and two dollars annually for each half mile of such line of trees for the period of six years. To entitle any person to compensation under this act for trees planted by the acre, such person shall plant or grow not less than twenty-seven hundred trees on each acre in the first instance, and cultivate, maintain, and keep in a thrifty growing condition at least eighteen hundred trees on each acre during the first and second years next succeeding the year of planting, and maintain in a thrifty growing condition for the remaining three years thereafter not less than nine hundred trees on each acre; and to entitle any person to compensation for the planting, cultivating, protection, and maintenance of trees along the public highway, such person shall plant the trees not more than eight feet apart, cultivate the same during the first and second years after the year of planting, and maintain the same in a thrifty growing condition, not more than eight feet apart, for the remaining three years: *provided*, that the planting of cuttings or sowing of tree seed shall be construed to be a planting of trees within the meaning of this act; but no person shall receive compensation for the year in which such cuttings are planted or tree seeds are sown, and the year[s] succeeding the sowing of such tree seed and planting of cuttings shall be construed to be the six years for which compensation is granted under this act: *provided, also*, that this act shall not apply to any railroad company planting trees within two hundred feet of its track, nor to any person planting trees in compliance with the requirements of the act of congress entitled 'An act to encourage the [growth] of timber on western prairies,' approved March third, one thousand eight hundred and seventy-three, or an act amendatory thereof. (1881, c. 151, § 1,* *as amended* 1883, c. 44, § 1.)

[See *ante*, *§ 70, and note.]

***§ 73c. Proceedings to obtain bounty.**

Any person wishing to secure the benefits of this act shall file with the county auditor of the county in which the land is located a correct plat of such grove or line of trees, and designate the same by metes and bounds, giving the subdivision on which the same is located, according to government survey, and if such grove or line of trees is extended, supplemental plats of such extension, made out in like manner, shall be filed from time to time, as such extension is made. Such applicant for compensation shall also make proof of the ownership of the land and of the planting and maintaining of the requisite number of trees, and at the proper distance, as above specified, and of the cultivation and maintenance in a thrifty, growing condition of the same, as within provided, to be verified by the claimant, and supported by the affidavit of at least two freeholders, residents of the same town, who have personal knowledge of the facts, which proof is to be filed with the county auditor of the county between the first and fifteenth days of July of the year for

* Act of 1881, entitled "An act to encourage timber culture, and to provide a compensation therefor." Approved March 5, 1881.

which compensation is claimed. Such proof shall be made in such form and on such blanks as shall be prescribed by the Minnesota Forestry Association, in conformity with the spirit of this act. (1881, c. 151, § 2.)

***§ 73d. Examination and report by assessor.**

It is hereby made the duty of the assessor of every town, at the time of making his assessment, to ascertain whether or not trees have been planted by any land-owner in his town, and for which compensation is claimed under this act; and in case trees have been planted, and such compensation is claimed, the assessor shall personally examine the grove or line of trees, and make report of the extent and condition thereof, according to the prescribed form, the same to be returned to the county auditor with the other returns and assessment book. (*Id.* § 3.)

***§ 73e. County auditor—Examination—Report to state auditor.**

The county auditor shall thereupon, and before the first day of August each year, compare the proof furnished by the owner of the grove or line of trees with the assessor's report thereof, and if the same correspond in substance he shall immediately forward to the state auditor a certified list of all plats filed, and proofs of planting, cultivation, and maintenance found correct as aforesaid. (*Id.* § 4.)

***§ 73f. Warrants for bounty—Limitation of aggregate compensation.**

If the state auditor finds that the provisions of this act have been complied with, he shall issue to the several claimants entitled to compensation his warrant upon the state treasurer for the amount to which such claimant is entitled under this act, on the first Monday in October each year: *provided*, that if the aggregate of the compensation so applied for shall, in any one year, exceed the amount of money in the hands of the state treasurer belonging to the state forestry fund, then it shall be the duty of the state auditor to ascertain the amount of money in said fund, and on the first Monday of October in such year equitably distribute such sum among the claimants, and to issue no warrant to any claimant for a larger sum than his *pro rata* share under said distribution, and his warrant for such *pro rata* shall relieve the state and said fund from further claim for such year. (*Id.* § 5.)

***§ 73g. Forestry fund—Limitation of expenditure.**

For the purpose of paying the compensation provided for in this act, a general tax of one-tenth of one mill on the assessment of all the real and personal property in the state shall be annually levied by the state auditor, in the same manner as state taxes. The moneys collected from such tax shall be designated the state "forestry fund," shall be separately kept and accounted for, and shall be collected in the same manner and by the same persons as are other state taxes, and paid into the state treasury. The state treasurer shall place all moneys collected from said tax to the credit of said fund, and no payments shall be made therefrom except for the redemption of the state auditor's warrants, issued as hereinbefore provided, and as provided in the following section: * *provided*, that no more than twenty thousand dollars shall be expended for said purpose in any one year. (*Id.* § 6.)

***§ 73h. Appropriation from forestry fund.**

That there be, and hereby is, appropriated to the Minnesota State Forestry Association the sum of five thousand dollars, out of any money in the state

*The "following section" merely provides that the act shall take effect from and after its passage.

treasury belonging to the state forestry fund, not otherwise appropriated, for the support of said association during the years eighteen hundred and eighty-three and eighteen hundred and eighty-four, which amount, or so much thereof as may be necessary, shall be expended by said association in the promotion and encouragement of tree-planting in this state, by means of printing and distributing a manual of directions for planting and cultivating forests, procuring lectures and addresses on the subject by persons skilled in that science, and disseminating the same through the public press; collecting information on the best methods of forest culture from persons in this state who have been successful in the same; by experimental cultivation of varieties of forest trees which are supposed to be adapted to this climate, or by procuring and distributing seeds and cuttings for the same, and generally to aid and encourage tree-planting by any other means which they may think advisable. (1883, c. 110, § 1.*)

***§ 73i. Distribution of Forest-Tree-Planters' Manual.**

Said association is hereby authorized and directed to have a new edition of the Forest-Tree-Planters' Manual prepared by an expert in the science of forestry, and they shall print and distribute as large an edition of the same as they may deem expedient, sending copies of the same free to such citizens as may apply therefor. (*Id.* § 2.)

***§ 73j. Expenditure for publishing other instructions.**

A portion of the sum above appropriated may also be expended by said association in measures for the protection of the forest already growing in the state, by publishing information as to the best manner of preventing forest fires, and otherwise protecting them, with directions for the proper trimming, thinning, replanting, etc., so as to produce systematic care of the woodlands of the state and their profitable use. (*Id.* § 3.)

***§ 73k. Money—How drawn and paid.**

The money above appropriated shall be paid out of the state treasury on vouchers filed by the treasurer of the forestry association, which have been approved by the president of said association. (*Id.* § 4.)

REGULATIONS FOR THE SALE OF NURSERY STOCK.†

***§ 73l. Sale of trees, etc.—Bond and affidavit.**

It shall be unlawful for any person, corporation or association, to sell or offer for sale any tree, plant, shrub, or vine not grown in the state of Minnesota without first filing with the secretary of state an affidavit setting forth his name, age, occupation, and residence, and, if an agent, the name, occupation, and residence of his principal, and a statement as to where the nursery stock aforesaid to be sold is grown, together with a bond to the state of Minnesota, in the penal sum of two thousand dollars, conditioned to save harmless any citizen of this state who shall be defrauded by any false or fraudulent representations as to the place where such stock sold by such person, corporation, or association was grown, or as to its hardiness for climate: *provided*, that the bond aforesaid shall, when the principal is a resident of this state, be given by such principal, and not by the agent. (1887, c. 196, § 1.)

***§ 73m. Certificate.**

The secretary of state shall, on the full compliance with the foregoing provisions, give to the applicant aforesaid a certificate under his official seal, set-

*"An act for the promotion of forestry in this state." Approved March 2, 1883.

†"An act to prevent the practice of fraud by tree planters and commission men in the sale of nursery stock." Approved March 8, 1887.

ting forth in detail the facts showing a full compliance by said applicant with the provisions of this act, and said applicant shall exhibit the same, or a certified copy thereof, to any person to whom stock is offered for sale. (1887, c. 196, § 2.)

***§ 73ⁿ. Contracts for sales.**

Any person, whether in the capacity of principal or agent, who shall sell or offer for sale any foreign grown nursery stock within this state, shall furnish to the purchaser of such stock a duplicate order, with a contract specifying that such stock is true to name and as represented. (*Id.* § 3.)

***§ 73^o. Unauthorized sales, etc.—Penalty.**

Any person, whether in the capacity of principal or agent, who shall sell or offer for sale any foreign grown nursery stock within this state without complying with the requirements of this act, or shall refuse to exhibit the certificate mentioned in section two of this act, whenever demanded, or shall, by means of any advertisement, circular, notice, or statement, printed or written, published or posted, or circulated by the agency of any officer, agent, or other person, or by any other means shall falsely represent to any person or to the public that said nursery stock is grown in the state, and is hardy, and is adapted to this climate, shall be deemed guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction shall be punished by a fine of not less than twenty-five nor exceeding one hundred dollars, or by imprisonment in the county jail for a term of not less than ten nor more than sixty days, in the discretion of the court, and shall be liable to the party injured in a civil action for treble the amount of damages sustained, and such party in such civil action may sue in his own name on said bond for the amount of such damages. (*Id.* § 4.)

BOUNTIES FOR KILLING WOLVES.*

***§ 74. Bounties—Application and proof.**

Any person who shall kill any wolf in this state between November first and May first in any year, shall be entitled to receive a bounty of five dollars, and for any wolf killed in this state in any year between May first and November first, shall be entitled to receive a bounty of three dollars; and any person claiming such bounty shall produce the head of the wolf so killed, with the ears and scalp thereon entire, within twenty days after such wolf has been killed, to the county auditor, or, in his absence, to the clerk of the court, and shall make oath or affirmation in writing before such auditor, or the clerk of the court, that the wolf whose head is produced was killed within such county within twenty days last past, and shall surrender and deliver to such officer the head of such wolf with the scalp thereon. (1876, c. 94, § 1, *as amended* 1879, c. 39; 1881, c. 18, § 1. *See Gen. St. *§ 123 et seq.*)

See Murray v. County, (Iowa,) 38 N. W. Rep. 684.

***§ 75. Order for bounty—Receipt.**

The county auditor, after such oath or affirmation shall have been made, having been satisfied that such head has been destroyed, shall then grant an order to the person making the affidavit, for the amount due him, on the treasury of the state, taking a receipt for the same on the back of said affidavit, which said county auditor shall keep on file in his office; which said order shall be received in payment of state tax. (1876, c. 94, § 2, *as amended* 1879, c. 39, § 2.)

*See appropriation act, 1881, Ex. Sess. c. 102.

***§ 76. Record—Report to state auditor.**

The county auditor shall enter in a book for that purpose the date and amount of such order, with the number thereof, and to whom issued, and shall annually, between the fifteenth and twentieth day of November, make a certified copy of such entries, and transmit the same to the auditor of state. (*Id.* § 3.)

***§ 77. Redeemed orders — Preservation — Fraudulent orders—Penalty.**

It shall be the duty of the state treasurer, on receipt of any such county orders in payment of state taxes, to enter on the face of the same the word "redeemed" and the date of redemption; and the auditor of state, on receiving any such redeemed order, to preserve the same, and at least once in each year to compare the same with the exhibit thereof furnished him by the county auditor of the proper county, as hereinbefore required. Any county auditor, or deputy county auditor, or clerk of court, who shall be found guilty, by any court of competent jurisdiction, of fraudulently issuing any order for bounty under the provisions of this act, shall be punished by fine not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail not longer than sixty days, or by both such fine and imprisonment, in the discretion of the court, for each offense. (*Id.* § 4, as amended 1881, c. 18, § 2.)

BOUNTIES FOR KILLING BLACKBIRDS AND GOPHERS.

***§ 78a. Bounties.**

That gophers and blackbirds are declared public nuisances, and any person who shall kill or destroy said gophers in this state shall be entitled to receive five cents each for every pocket gopher so killed by him, and three cents each for all other kinds of gophers so killed. And any person who shall kill or destroy blackbirds shall be entitled to receive ten cents for each and every dozen so killed during the months of April, May, and June of any year, five cents for each and every dozen killed by him during the months of July, August, September, and October of any year. (1887, c. 144, § 1.*)

***§ 78b. Same — Certificate and warrant — Acceptance of act.**

That it shall be the duty of the chairman of the board of supervisors of each town, on the production to him of the dead bodies of all such gophers and blackbirds killed as aforesaid in the town of which said chairman is supervisor, and of which he shall have satisfactory evidence were killed by the person so producing such bodies, to issue his certificate under his official signature to the county auditor of the county, certifying that such person has killed one or more dozen, as the case may be, of said blackbirds, and giving the number of said gophers so killed, and thereupon the county auditor shall draw and issue a warrant on the county treasurer for the amount such person is entitled to receive under the provisions of the preceding section of this act: *provided*, that the provisions of this act shall not apply until the same has been submitted to the board of county commissioners of the several counties in the state, and a majority of such board of county commissioners shall vote to accept the same. (*Id.* § 2.)

***§ 78c. Blackbirds—Local bounties authorized.**

That the county commissioners of any county in the state, and the supervisors of any town in the state, are hereby authorized and empowered to offer

*"An act to provide bounties for the destruction of gophers and blackbirds." Approved March 8, 1887.

a bounty for the killing of blackbirds, and they shall have power to provide such rules and regulations for the payment of such bounty as they may deem necessary. (1885, c. 182*.)

EXEMPTIONS OF DISABLED SOLDIERS.

As to the constitutionality of this act, (1866, c. 3, and amendments,) see *Le Duc v. City of Hastings*, 38 N. W. Rep. 803.

*§ 80. Neglect to issue order—Penalty.

When the authorities of any county, city, or town shall neglect or refuse to issue and deliver the said order in accordance with the previous section, such county, city, or town shall be liable, in an action at law, to the party or parties aggrieved, in the sum of twice the amount of his or their taxes, charges, penalties, and interest so levied, imposed, or charged, with interest at the rate of seven per cent. per annum from the time of payment; and such action may be instituted against such county, city, or town within six years from the approval of this act. (1866, c. 3, § 2, *as amended* 1887, c. 65.)

PREFERENCE TO SOLDIERS IN PUBLIC EMPLOYMENTS.†

*§ 82a. Preference to soldiers for public employment.

That in every public department, and upon all the public works of the state of Minnesota, and the counties, towns, cities, and villages thereof, honorably discharged Union soldiers and sailors, who are properly qualified, shall be preferred for appointment and employment. Age, loss of limb, or other physical impairment, which does not in fact incapacitate, shall not be deemed to disqualify them: *provided*, they possess the other requisite qualifications for the proper discharge of the duties of the position sought. (1887, c. 149.)

BURIAL OF DECEASED SOLDIERS.‡

*§ 82b. Burial of deceased soldiers.

That it shall be the duty of the board of county commissioners in each county of this state to designate some suitable person in each commissioners' district of their county, whose duty it shall be to cause to be decently and honorably interred the body of any honorably discharged soldier, sailor, or marine who served in the army or navy of the United States during the late war of the rebellion or in the Mexican war, or who served in the campaign against the Indians in the state of Minnesota in the year eighteen hundred and sixty-two, and was not enlisted in the service of the United States, who may hereafter die without leaving sufficient means to defray his funeral expenses: *provided*, that the expense of such burial shall not exceed the sum of thirty-five dollars: *and provided, further*, that in case surviving relatives of the deceased or posts or comrades of the "Grand Army of the Republic" shall desire to conduct the funeral they shall be permitted to do so, and the expenses shall be paid as herein provided. (1887, c. 150, § 1.)

*§ 82c. Head-stones.

The grave of any such deceased soldier, sailor, or marine shall be marked by a head-stone containing the name, date of birth, date of death of the de-

*"An act authorizing county commissioners and town supervisors to offer bounties for killing blackbirds." Approved March 7, 1885.

†"An act giving preference in appointment and employment to honorably discharged Union soldiers and sailors." Approved February 26, 1887.

‡"An act to authorize the burial by the state of the bodies of honorably discharged soldiers, sailors, or marines who may hereafter die without having sufficient means to defray his funeral expenses." Approved March 2, 1887.

ceased, and the name of the organization to which he belonged or in which he served, or so much of the foregoing as may be obtainable: *provided*, that the said board of county commissioners shall first have applied to and been unable to obtain such head-stone from the general government: *and provided, further*, that the cost of such head-stone and of placing the same, shall not exceed the sum of fifteen dollars. (*Id.* § 2.)

***§ 82d. Place of burial—Defrayment of expenses.**

Such burial shall not be made in any cemetery or place used exclusively for the burial of the pauper dead, and the expense of said burial and head-stone shall be paid by the state of Minnesota, as follows. The said board of county commissioners shall report all such expenditures, with accompanying vouchers, properly attested by the county auditor of said county, to the state auditor, who shall thereupon draw his warrant on the state treasurer in favor of and payable to the county treasurer of the county wherein said expenditures were incurred. (*Id.* § 3.)

***§ 82e. Appropriation.**

There is hereby appropriated from any money in the state treasury not otherwise appropriated the sum of one thousand dollars annually, or so much thereof as may be necessary for the purpose of carrying this act into effect. (*Id.* § 4.)

DISTRIBUTION OF SEED TO GRASSHOPPER SUFFERERS.

[§ 14, c. 156, Gen. Laws 1877, providing for the levying of an additional tax to cover the amount of uncollectible loans to grasshopper sufferers, repealed 1887, c. 192, § 2.]

***§ 114¹. Suspension of Laws 1878, c. 94.**

The provisions of chapter ninety-four of the General Laws of one thousand eight hundred and seventy-eight are hereby suspended for one year, as against all persons who may be unable to pay for the seed grain received by them under the provisions of said act, by reason of loss or damage of crops of the present or of the ensuing year: *provided*, that all persons claiming relief under this act shall, on or before the first day of October of each year, file with the county auditor an affidavit of loss or damage of crop and consequent inability to pay the one-half of his indebtedness to be levied against his property for such year, and to become due the ensuing year, with an indorsement thereon of two disinterested freeholders of the town in which the applicant resides, vouching for the truth of his statement. (1879, c. 68, § 1.)

***§ 114². Omission from tax levy.**

The county auditor shall omit from the tax levy of that year the amount due for seed grain from all persons filing with him such affidavit, properly attested and vouched for within the time prescribed, and shall include the same in the levy for the next year following. (*Id.* § 2.)

***§ 114³. Rights of state preserved.**

Nothing in this act shall operate in any manner to prejudice the claims of the state against all persons indebted for seed grain, but all the provisions of said chapter ninety-four, except as herein specially provided, shall continue in full force and effect as against such persons indebted until the claims of the state are fully paid and satisfied. (*Id.* § 3.)

***§ 114⁴. Seed grain personal property tax—Extension of time.**

That the payment of the seed grain personal property tax against all persons who were furnished seed grain by the state of Minnesota under the pro-

visions of chapter ninety-four of the General Laws of eighteen hundred and seventy-eight, which has not been paid, and where such persons are unable to make present payment thereof on account of failure of crops or other reasonable cause, be, and the same hereby is, extended, without interest, costs, or penalties, as to one-half of said tax, until the first day of November, A. D. eighteen hundred and eighty-one, and as to the other half of said tax, until the first day of October, eighteen hundred and eighty-two, upon the conditions and terms hereinafter stated, and not otherwise. (1881, c. 149, § 1.*)

***§ 114⁵. Seed grain real-estate tax—Extension of time.**

That the payment of one-half of the seed grain real-estate tax against the real estate of all persons who were furnished seed grain by the state of Minnesota under the provisions of chapter ninety-four of the General Laws of eighteen hundred and seventy-eight, which has not been paid, and where such persons are unable to make present payment thereof on account of failure of crops or other reasonable cause, be, and the same hereby is, extended, without interest, cost, or penalties, until the first day of June, eighteen hundred and eighty-two, upon the terms and conditions hereinafter stated, and not otherwise. (*Id.* § 2.)

***§ 114⁶. Application for extension—Collection of tax.**

That all persons wishing to avail themselves of this act, shall, on or before June first, eighteen hundred and eighty-one, make application therefor to the county auditor of the proper county, and shall file with such county auditor his or her affidavit, containing a description of their land, if any, against which there are unpaid taxes for seed, and stating that they are unable to pay the taxes due from them for seed grain by reason of loss of crops or other reasonable cause, to be set forth in such affidavit; and thereupon the said county auditor shall, if he is satisfied that said parties are unable to make present payment of said taxes, grant an extension of the time of the payment of said taxes as hereinbefore provided, and shall deliver to the county treasurer of his county a list of the names of the persons, with a description of their real estate, to whom such extension shall be granted; but no extension of any portion of said real-estate tax shall be extended until one-half of said tax has been actually paid. At the expiration of such extension the said county treasurer shall proceed to collect said personal property taxes in accordance with the provisions of section fifty-eight of chapter eleven of the Statutes of eighteen hundred and seventy-eight. And the balance of said real-estate taxes, if not paid on or before June first, eighteen hundred and eighty-two, shall be collected in the same manner, and as a part of the taxes for the year eighteen hundred and eighty-one, against said real estate. (*Id.* § 3.)

***§ 114⁷. Rights of state preserved—Estoppel to question tax.**

That nothing in this act shall operate in any manner to prejudice the claims of the state against any person indebted for seed grain, but all the provisions of said chapter ninety-four, except as herein provided, shall continue in full force and effect as against such persons indebted, until the claims of the state are fully paid and satisfied. And all persons availing themselves of the benefits of this act shall be deemed to have waived any and all defense which they have or might have had against the payment of said taxes, and shall be estopped from asserting the invalidity of any of said taxes or claims for taxes extended by virtue of this act, and the portion of said real-estate tax extended shall be and continue to be a lien on the real estate against which it purports to have been assessed until paid. (*Id.* § 4.)

*"An act extending the time of payment for seed grain furnished sufferers from grasshopper ravages under chapter 94 of the General Laws of 1878." Approved March 1, 1881.

***§ 114⁸. Auditor's report of unpaid loans.**

That on or before the fifteenth day of July, one thousand eight hundred and eighty-nine, the several county auditors in the counties that received loans under the provisions of chapter one hundred and fifty-six, General Laws of one thousand eight hundred and seventy-seven, and chapter ninety-four, General Laws of one thousand eight hundred and seventy-eight, shall make a report to the state auditor, showing the names of persons in their respective counties who received a portion of said loans, and have died or removed from the state leaving said loans unpaid, or who are in such impoverished condition as to be utterly unable to pay such loans or any part thereof. Such report shall also show the amount of each of said loans such persons received, the amount of penalty accrued on said unpaid loans, also the amount of general taxes on any lands that said loans were levied upon, and the accrued penalties on said general taxes. Said statement shall also show, if in the knowledge of the auditor, the circumstances as to ability of the estate of deceased persons to pay such loans. And if any lands of any persons who received a portion of said loans have been sold under mortgage foreclosure, the auditor shall give a description of such lands, the assessed valuation of the same at the time of such foreclosure, and the amount sold for under such foreclosure sale, with the date of mortgage and date of levy of such seed-grain tax. The county auditor shall also report any land owned by any persons receiving such loans, upon which mortgages had been given prior to receiving such loans, and the register of deeds shall, upon the request of the county auditors, give the date of existing mortgages on said lands without charge. (1885, c. 226, § 1,* as amended 1887, c. 192, § 1.)

***§ 114⁹. Abatement of taxes, etc.**

Upon receipt of such reports the state auditor shall examine the same, and authorize the county auditor to strike from the tax-judgment book and tax-lists the amount included in such judgment, and taxes for seed-grain, taxes and penalties thereon, all such seed-grain taxes, which he may, from the evidence furnished in the reports, consider proper to be abated, provided such abatement shall not be made until the general taxes are paid. (1885, c. 226, § 2.)

***§ 114¹⁰. Same—Credit to state-account.**

Upon abatement of such seed-grain taxes, the county auditor shall credit the state-account with the penalties accrued on the general taxes so paid, after deducting the costs of advertising, entering judgment and sale, and such penalties so credited to the state shall be reported to the state auditor in the next settlement as a part of the state funds, and be paid by the county treasurer in the same manner as other state taxes. (*Id.* § 3.)

***§ 114¹¹. Auditor's compensation.**

The county commissioners of the several counties may allow county auditors for their services under this act such compensation as the commissioners may deem proper. (*Id.* § 4.)

RELIEF TO SUFFERERS FROM HAIL.†

***§ 114¹². Seed-grain—Notices—Application.**

It shall be the duty of the county auditor of each of the counties of Marshall,

*"An act relating to seed-grain loans of one thousand eight hundred and seventy-seven and one thousand eight hundred and seventy-eight, and providing for cancellation of certain claims of the state for repayment of such loans by individuals." Approved March 9, 1885. And see note under the title, *supra*.

†"An act to furnish seed-grain for distribution in certain counties in this state afflicted by hail during the season of 1886, and to authorize the boards of county commissioners of such counties to issue bonds for the payment thereof." Approved March 5, 1887. Gen. Laws 1887, c. 182.

Polk, Big Stone, Lac qui Parle, Swift, Norman, Chippewa, Becker, and Wilkin, or any other county in the state of Minnesota, wherein the crop of the year eighteen hundred and eighty-six was partially or wholly destroyed by hail, before the fifth day of March, A. D. one thousand eight hundred and eighty-seven, to give notice to the respective town clerks in the different towns of said counties to post notices immediately in at least three of the most public places in each town, to all persons, wishing to avail themselves of the benefits of this act, to meet at the town clerk's office in the town, or at the county auditor's office in the county in which the applicant resides, and file with said town clerk or county auditor, on or before the fifteenth day of March, A. D. one thousand eight hundred and eighty-seven, an application duly subscribed and sworn to before the said town clerk or county auditor, which application shall be attested by at least two witnesses. Said application shall contain a true statement of the number of acres the applicant has plowed and prepared for seeding; how many acres the applicant intends to have plowed and prepared for seeding before seeding time; how many bushels are necessary, and of what kind of grain, to seed the ground so prepared, or to be prepared as aforesaid; that said applicant's crop was in the year one thousand eight hundred and eighty-six entirely destroyed by hail, or, if only partially destroyed, how many bushels the applicant harvested in the year one thousand eight hundred and eighty-six of each kind of grain; also what amount of seed-grain, and of what kind, the applicant desires to borrow from the state; that the applicant has not procured and is unable to procure the necessary seed-grain; also that the applicant desires the same for seed-grain, and for no other purpose; and that the applicant will not sell or dispose of the same, nor any part thereof. Said application shall also contain a true and full description of all real and personal property owned by the applicant, and whether incumbered or otherwise, and also the government subdivision or subdivisions upon which the party intends to sow said seed-grain. (1887, c. 182, § 1.)

***§ 114¹³. Filing application.**

The town clerk of each town shall on or before the fifteenth day of March, A. D. one thousand eight hundred and eighty-seven, forward said applications to the county auditor of the proper county, and said applications shall be filed in the said county auditor's office, and be open to public inspection; and no applicant shall be entitled to or receive any of the benefits of this act unless on or before the fifteenth of March, A. D. one thousand eight hundred and eighty-seven, the applicant shall have made and filed with the town clerk of the town or the county auditor of the county in which the applicant resides, the application as required and in the manner and form mentioned in section one of this act. (*Id.* § 2.)

***§ 114¹⁴. Board of examination, etc.—Proceedings—Report—Limit of relief.**

The board of county commissioners of each county so devastated by hail shall be and are hereby constituted and appointed a board of examination and adjustment of the applications for seed-grain, and it shall be the duty of said board to meet at the county auditor's office on the fifteenth day of March, A. D. one thousand eight hundred and eighty-seven, to examine and consider, separately, each application as provided in section one of this act, and to decide who are entitled to the benefits herein mentioned, and the amount thereof; and said board shall on or before the seventeenth day of March, A. D. one thousand eight hundred and eighty-seven, forward to the governor a statement giving the number of applicants, the number of acres prepared or to be prepared, and number of bushels of each kind of seed-grain needed in the county; and said statement shall contain only such applications as have been approved by said board, and shall be signed by the chairman of said board,

and certified to by the county auditor: *provided*, no one applicant shall receive a greater amount in value of seed-grain than seventy-five dollars. (*Id.* § 3.)

***§ 114¹⁵. Apportionment of appropriation.**

The governor, upon receipt of the statements as provided in section three of this act, shall apportion the amount appropriated for such purpose or such sum thereof as may be necessary, to equal the amount of all such statements to each county, and if the amount applied for shall exceed the appropriation for such purpose, then the amount shall be distributed *pro rata* to said counties. Said distribution to be based upon the amount and number of applications as contained in each statement from each county. (*Id.* § 4.)

***§ 114¹⁶. County commissioners—Authority to purchase seed-grain.**

The governor shall then inform the county auditor in the different counties of the amount apportioned to each county under said apportionment, and shall authorize the board of county commissioners of each county to purchase said seed-grain in or near the counties where the seed-grain is required at the market price to equal the amount each county is apportioned, and cause to be delivered to each applicant amount of order for said seed-grain. (*Id.* § 5.)

***§ 114¹⁷. Readjustment of applications—Apportionment.**

Immediately upon receiving notice from the governor of the amount apportioned to each county, the board of county commissioners shall meet at the county auditor's office and readjust the applications for seed-grain, and apportion the amount that has been allowed said county among the applicants, as provided in section one of this act. (*Id.* § 6.)

***§ 114¹⁸. Order for seed-grain—Contract of applicant.**

The county auditor of each county shall, at the request of the chairman of the board of county commissioners, issue to each applicant an order for the number of bushels of each kind of seed-grain which has been allowed to said applicant: *provided*, that said order shall not be issued until said applicant has signed a contract in duplicate form to be attested by the county auditor wherein said applicant, for and in consideration of ——— bushels of seed-grain received from the state, promises to pay to the state of Minnesota the amount of the cost of said seed-grain; that said sum shall be taxable against the real and personal property of said applicant; and that said applicant will refund to the state in the form of a tax to be levied by the county auditor of the proper county, the same to be collected as taxes against real and personal property are collected by virtue of the laws of this state; and that said sum so levied shall be a first lien upon the crop of grain raised each year by the person receiving said seed-grain until the said tax is fully paid by the said party of the said county. (*Id.* § 7.)

***§ 114¹⁹. Seed-grain tax—Levy—Disposition of collections.**

It shall be the duty of the county auditor of each county to cause to be levied against the property of each person receiving said seed-grain under the provisions of this act the total sum due the state by each person so receiving said seed-grain, one-half of the said sum to be levied in each of the two years immediately following the contract given for said seed-grain; and all moneys collected by the county treasurer of each county under the provisions of this act shall be without compensation, and shall be kept separate from other state and county taxes, and paid over to the state treasurer, as provided in section fifteen of this act. (*Id.* § 8.)

***§ 114²⁰. Contracts—Filing—Records—Surplus grain.**

That the contracts, as provided for in section seven of this act, shall be numbered in triplicate and consecutive order by the county auditor, one of which shall be transmitted to the state auditor, and the other filed in his office; also file certified copy of said contract in the town clerk's office of each town where said person resides, and the county auditor shall keep a correct schedule of the same, giving number and name of each applicant and date of contract, the cost of each kind of seed-grain, and the total sum due the state; also a description of the land occupied by each of such applicants, in a book to be used for that purpose, and no other; said book to be open to public inspection; and a true copy of said schedule shall be made and signed by the chairman of the board of county commissioners, and certified to by the county auditor, and forwarded to the governor: *provided*, that after all applicants for seed-grain are supplied, should there be a surplus, the same shall be sold by direction of the board of county commissioners, and the sum received therefor shall be paid over to the county treasurer, who shall give his receipt, and said sum shall by him be paid over to the state treasurer, who shall indorse said amount so received on the county bond of the county making such payment. (1887, c. 182, § 9.)

***§ 114²¹. Lien—Extent—Notice—Payment.**

Upon the filing of said contract, as provided for in section nine of this act, the state of Minnesota shall acquire a just and valid lien upon the crops of grain raised each year by the person receiving said seed-grain, to the amount of the total sum due the state, as stated in said contract, as against all creditors, purchasers, or mortgagees, in good faith or otherwise, and the said filing of said contract shall be held and considered to be full and sufficient notice to all parties of the existence of said lien, which shall continue in force until the tax as provided for in said contract is paid. And any person or persons who have received such seed-grain shall, as soon as the crop raised from said seed-grain is harvested and threshed, market a sufficient amount to satisfy the claim against said seed-grain then due or about to become due, and deposit the same with the county treasurer in money or storage checks, as may seem best to all parties concerned, and when the person or persons who have received said seed-grain shall have deposited such money or storage check with the county treasurer it shall be deemed to satisfy said lien for the year for which such payment shall have been made, except a sufficient amount to seed the same ground for another and following year, until the whole amount is fully paid and satisfied. (*Id.* § 10.)

***§ 114²². Cancellation of contract.**

Whenever the tax, as provided for in each contract filed under the provisions of this act, is fully paid, the county auditor is fully empowered to cancel such contract, and shall write the word "satisfied," with the date opposite the name of such person, in the book in which said contracts are entered, and shall deliver up said contract to the person entitled thereto. (*Id.* § 11.)

***§ 114²³. Misappropriation of seed or crop—Penalty—Perjury.**

Any person or persons who shall sell, transfer, take or carry away, or in any manner dispose of the said seed-grain, or any part thereof, furnished by the state for seed-grain purposes only, or to use the said seed-grain for any other purpose than that of sowing or planting his ground, or who shall sell, transfer, take or carry away, or in any manner dispose of, the crop, or any part thereof, procured by the sowing or planting of said seed-grain, with the intent to defraud the state, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace shall pay a fine of not

less than ten dollars, nor more than one hundred dollars, or be imprisoned in the county jail for a term of not less than ninety days, and shall pay all costs of prosecution; and whoever, under any of the provisions of this act, shall be found guilty of false swearing shall suffer the pains and penalties of perjury. (*Id.* § 12.)

***§ 114²⁴. Prosecutions.**

It shall be the duty of the supervisors, constables, and town clerks of towns, and the commissioners, sheriff, and county attorneys of the counties embraced herein, having knowledge of the violation of the provisions of this act, to make complaint thereof to any justice of the peace of the proper county, and said justice shall issue a warrant for the arrest of the offender, and proceed to hear and determine the matter in issue in the same manner as provided in other cases; and every person convicted under the provision of this act shall stand committed to the county jail until such fine is paid: *provided*, such imprisonment shall not exceed ninety days. (*Id.* § 13.)

***§ 114²⁵. County auditor—Compensation.**

The county auditor shall receive as compensation for the services imposed upon him by this act two per cent. of the amount received for taxes for this purpose each year, to be paid out of the county treasury as the salaries for county officers are paid. (*Id.* § 14.)

***§ 114²⁶. County bonds.**

That the county commissioners of each and every county heretofore named shall under the provision of this act receiving aid from the state for the purpose therein named, are hereby authorized and empowered to issue their bonds to the state of Minnesota for the full amounts of such aid received by their respective counties, payable within four years from date thereof. Said bonds shall be signed by the chairman of the board of county commissioners, and countersigned by the county auditor, and sealed with his seal, and before receiving such aid shall deliver such bonds to the state auditor. All payments made by the treasurer of such county to the state treasurer, as provided heretofore, shall be indorsed on such bonds respectively at the time of such payment. (*Id.* § 15.)

***§ 114²⁷. Same—Tax.**

That the county auditors of each county, issuing bonds as provided in section ten of this act, shall, at the time of making the annual tax levy, levy a tax on all the taxable property in such county for an amount in addition to all other state and county taxes, adequate to pay the sum remaining unpaid on said bonds; said tax to be levied and collected as other county and state taxes. (*Id.* § 16.)

***§ 114²⁸. County commissioners—Compensation.**

The county commissioners shall receive as compensation for the services imposed upon them by this act the sum of two dollars per day for each day necessarily occupied, not to exceed five days in all, to be paid out of the general county fund. (*Id.* § 17.)

***§ 114²⁹. Appropriation.**

That the sum of forty thousand dollars be, and the same is hereby, appropriated out of any moneys in the state treasury not otherwise appropriated, for the purpose of complying with this act. (*Id.* § 18.)

***§ 114³⁰. Sufferers from hail—Appropriation for relief.**

That the sum of twenty thousand dollars be, and the same is hereby, appropriated out of any moneys in the state treasury not otherwise appropriated,

for the purpose of giving aid to those persons who lost their crops by hail during the summer of one thousand eight hundred and eight-six, in the counties of Marshall, Polk, Swift, Norman, Chippewa, Lac qui Parle, Big Stone, or any other counties in the state of Minnesota. (1887, c. 212, § 1.)*

***§ 114³¹. Same—Expenditure.**

Said sum shall be expended under the direction of the governor of the state of Minnesota. (*Id.* § 2.)

***§ 114³². Same—Appropriation for relief.**

That the sum of twenty thousand dollars be, and the same is hereby, appropriated out of any moneys in the state treasury not otherwise appropriated, for the purpose of giving aid to the persons who lost their crops by hail during the summer of one thousand eight hundred and eighty-six, in the counties of Marshall, Polk, Swift, Norman, Chippewa, Lac qui Parle, Big Stone, and Renville. (1887, c. 262, § 1.†)

***§ 114³³. Same—Expenditure.**

That ten thousand dollars of said sum shall be used to reimburse the cities of St. Paul and Minneapolis for moneys furnished to and expended by Governor Hubbard in Marshall county in giving relief to those persons who lost their crops by hail in said county. The amount of said sum remaining unexpended shall be used for further relief in the above-named counties. (*Id.* § 2.)

***§ 114³⁴. Same.**

Said sum shall be expended under the direction of the governor of the state of Minnesota. (*Id.* § 3.)

MUTILATED, LOST, AND DESTROYED BONDS, ORDERS, AND WARRANTS.‡

***§ 130. Mutilated or lost bonds—Issue of duplicates.**

That whenever any bond, order, or warrant of the state of Minnesota, or any county, city, township, or school-district in the state of Minnesota, shall become so far mutilated as to become unfit for circulation, or shall be lost or destroyed, a duplicate thereof may be issued by the officers authorized by law to issue such bonds, orders, or warrants, under the regulations and restrictions hereinafter prescribed. (1883, c. 76, § 1.)

***§ 131. Duplicate—Form—Indorsement.**

Such duplicate shall correspond in number, date, amount, and coupons with the original bond, order, or warrant, and shall have indorsed on its face, and on the face of each coupon, by the officer issuing the same, the word, "duplicate," together with the date of its issuance. (*Id.* § 2.)

***§ 132. Issue of duplicate.**

On the delivery to the proper officer of any mutilated bond, order, or warrant, a duplicate of such bond, order, or warrant shall be issued, as herein provided. (*Id.* § 3.)

***§ 133. Filing affidavit and indemnity bond.**

A duplicate for a lost or destroyed bond, order, or warrant shall not issue until there shall have been filed with the proper officer an affidavit of the owner

*"An act to appropriate money for the purpose of giving relief to persons who lost their crops by hail." Approved March 8, 1887.

†"An act to appropriate money for the purpose of giving relief to persons who lost their crops by hail." Approved February 25, 1887.

‡"An act concerning mutilated, lost, and destroyed bonds, orders and warrants." Approved March 5, 1883.

thereof, setting forth the ownership of such bond, order, or warrant, the description thereof, the number of coupons thereto attached, and the manner of its loss and destruction, and until there shall have been executed and filed with the same officer an indemnifying bond, with sureties to be approved by such officer, in a sum equal to double the amount of such warrant, order, or bond, and the coupons attached, conditioned that the parties thereto shall pay all damages which the state, county, city, township, or school-district, as the case may be, may sustain, if compelled to pay such lost or destroyed bonds, orders, or warrants. (*Id.* § 4.)

***§ 134. Record of duplicates.**

Any officer issuing duplicates under this act shall keep a record showing the number, dates, and amounts of such mutilated, lost, or destroyed bonds, orders, or warrants, and the number of coupons thereto attached, together with the date of issuance of the duplicates therefor, and the names of the persons to whom issued. (*Id.* § 5.)

PRACTICE OF MEDICINE.*

***§ 135. State board of medical examiners — Appointment — Term.**

The governor of this state shall appoint a board of examiners, to be known as the "State Board of Medical Examiners," consisting of nine members, who shall hold their office for three years after such appointment, and until their successors are appointed: *provided*, that the members thereof first appointed under this act shall be divided into three classes, each class to consist of three. The first class shall hold office under said appointment for the period of one year, the second class for two years, and the third class for three years from the date of their appointment. It is further provided that no member thereof shall be appointed to serve for more than two terms in succession, and no member of any college or university having a medical department shall be appointed to serve as member of said board, two of which shall be homeopathic physicians. (1887, c. 9, § 1.)

***§ 136. Same—Officers—Meetings—Record.**

Said board of medical examiners shall elect a president, secretary, and treasurer; shall have a common seal. The president and secretary shall have the power to administer oaths. Said board of medical examiners shall hold meetings for examination at the capitol of this state on the first Tuesday of January, April, July, and October of each year, and such other meetings as said board may from time to time appoint. Said board shall keep a record of all the proceedings thereof, and also a record or register of all applicants for a license, together with his or her age, time spent in the study of medicine, and the name and locations of all institutions granting to such applicants degrees or certificates of lectures in medicine or surgery. Said register shall also show whether such applicant was rejected or licensed under this act. Said books and register shall be *prima facie* evidence of all of the matters therein recorded. (*Id.* § 2.)

***§ 137. Applications for license—Examination — Fee—Revolving license.**

All persons hereafter commencing the practice of medicine and surgery in any of its branches, in this state, shall apply to said board for a license so to

*"An act to regulate the practice of medicine in the state of Minnesota, and to license physicians and surgeons, and to punish persons violating the provisions of this act." Approved February 28, 1887. Took effect from and after July 1, 1887. The act of 1883, (c. 125,) repealed, *post*, *§ 141.

do, and such applicant, at the time and place designated by said board, or at the regular meeting of said board, shall submit to an examination in the following branches, to-wit: Anatomy, physiology, chemistry, histology, *materia medica*, therapeutics, preventive medicines, practice of medicine, surgery, obstetrics, diseases of women and children, diseases of the nervous system, diseases of the eye and ear, medical jurisprudence, and such other branches as the board shall deem advisable,—and present evidence of having attended three courses of lectures of at least six months each. Said board shall cause such examination to be both scientific and practical, but of sufficient severity to test the candidate's fitness to practice medicine and surgery. When desired, said examination may be conducted in the presence of the dean of any medical school, or the president of any medical society of this state. After examination said board shall grant a license to such applicant to practice medicine and surgery in the state of Minnesota, which said license can only be granted by the consent of not less than seven members of said board, and which said license shall be signed by the president and secretary of said board, and attested by the seal thereof. The fee of such examination shall be the sum of ten dollars, and shall be paid by the applicant to the treasurer of said board, to be applied by said board towards defraying the expenses thereof; and such board may refuse or revoke a license for unprofessional, dishonorable, or immoral conduct. In all cases of refusal or revocation the applicant may appeal to appointing power of said board. (1887, c. 9, § 3.)

***§ 138. Filing license—Records—Report of clerk.**

The person so receiving said license shall file the same, or a certified copy thereof, with the clerk of the district court in and for the county where he or she resides, and said clerk of the court shall file said certificate or copy thereof, and enter a memorandum thereof, giving the date of said license and name of the person to whom the same is issued, and the date of such filing, in a book to be provided and kept for that purpose; and said clerk of the court shall each year furnish to the secretary of said board a list of all certificates on file in his office, and upon notice to him of the change of location or death of a person so licensed, or of the revocation of the license granted to such person, said clerk shall enter at the appropriate places in the record so kept by him a memorandum of said fact; so that the records so kept by said clerk of the court shall correspond with the records of said board as kept by the secretary thereof. In case a person so licensed shall move into another county of this state, he or she shall procure from the clerk of the court a certified copy of said license, and file the same with the clerk of the district court in the county to which he or she shall so remove. Said clerk shall file and enter the same with like effect as if the same was the original license. (*Id.* § 4.)

***§ 139. Application of act.**

This act shall not apply to commissioned surgeons of the United States army or navy, to physicians or surgeons in actual consultation from other states or territories, or to actual medical students practicing medicine under the direct supervision of a preceptor. (*Id.* § 5.)

***§ 140. Practicing without license—Penalty.**

Any person practicing medicine or surgery within this state without first having obtained the license herein provided for, or contrary to the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty nor more than one hundred dollars, or by imprisonment in the county jail not less than ten days, nor more than ninety days, or both fine and imprisonment. Any person shall be regarded as practicing, within the meaning of this act, who shall append the letters "M. D." or "M. B." to his or her name, or for a fee prescribe, direct, or recommend for the use of any person any drug or medicine, or other agency for the treat-

ment, care, or relief of any wound, fracture, or bodily injury, infirmity, or disease: *provided, however*, this act shall not apply to dentists. Justices of the peace, and the respective municipal courts, shall have jurisdiction over violations of the provisions of this act. It shall be the duty of the respective county attorneys to prosecute violations of this act. (*Id.* § 6.)

***§ 141. Repeal—Licenses previously granted.**

Chapter one hundred and twenty-five of the General Laws of eighteen hundred and eighty-three is hereby repealed. It is however provided that all persons licensed under said act shall be taken and considered as licensed under this act. And the secretary of the board herein provided for shall enter the names of such persons upon the register so kept by him as licensed physicians and surgeons, without application or fee upon the part of the persons so licensed. (*Id.* § 7.)

PRACTICE OF DENTISTRY.*

***§ 142. Unlicensed practice unlawful.**

That it shall be unlawful for any person who is not at the time of the passage of this act engaged in the practice of dentistry in this state to commence such practice unless he or she shall have obtained a certificate, as hereinafter provided. (1885, c. 199, § 1.)

***§ 143. Board of examiners — Appointment — Term — Vacancies.**

A board of examiners, to consist of five practicing dentists, is hereby created, whose duty it shall be to carry out the purposes and enforce the provisions of this act. The members of said board shall be appointed by the governor, who shall select them from ten candidates, whose names shall be furnished him by the State Dental Association. At least three members of said board shall be members of the State Dental Association. The term for which the members of said board shall hold their offices shall be five years, except that the members of the board first to be appointed under this act shall hold their offices for the term of one, two, three, four, and five years, respectively, and until their successors shall be duly appointed. In case of a vacancy occurring in said board such vacancy shall be filled by the governor from the names presented to him by the Minnesota State Dental Association. It shall be the duty of the Minnesota State Dental Association to present twice the number of names to the governor of those to be appointed. (*Id.* § 2.)

***§ 144. Officers of board — Meetings—Quorum — Proceedings to be open to inspection.**

Said board shall choose one of its members president, and one the secretary, thereof, and it shall meet at least once in each year, and as much oftener, and at such times and places, as it may deem necessary. A majority of said board shall at all times constitute a quorum, and the proceedings thereof shall at all reasonable times be open to public inspection. (*Id.* § 3.)

***§ 145. Registration of practitioners.**

Within six months from the time that this act takes effect it shall be the duty of every person who is at that time engaged in the practice of dentistry in this state to cause his or her name and residence or place of business to be registered with said board of examiners, who shall keep a book for that purpose. The statement of every such person shall be verified under oath before a notary public or justice of the peace, in such manner as may be prescribed

*"An act to insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the state of Minnesota." Approved March 3, 1885.

by the board of examiners. Every person who shall so register with said board as a practitioner of dentistry may continue to practice the same as such, without incurring any of the liabilities or penalties provided in this act, and shall pay to the board of examiners for such registration a fee of one dollar. It shall be the duty of the board of examiners to forward to the clerk of the court of each county in the state a certified list of the names of all persons residing in his county who have registered in accordance with the provisions of this act, and it shall be the duty of all clerks to register such names in a book to be kept for that purpose. (1885, c. 199, § 4.)

***§ 146. Application and license.**

Any and all persons who shall so desire may appear before said board at any of its regular meetings and be examined with reference to their knowledge and skill in dental surgery, and if the examination of any such person or persons shall prove satisfactory to said board, the board of examiners shall issue to such persons as they shall find to possess the requisite qualifications a certificate to that effect, in accord[ance] with the provisions of this act. Said board shall also indorse as satisfactory diplomas from any reputable dental college, when satisfied with the character of such institution, upon the holder of such diploma furnishing evidence satisfactory to the board of his or her right to the same. All certificates issued by said board shall be signed by its officers, and such certificate shall be *prima facie* evidence of the right of the holder to practice dentistry in the state of Minnesota. (*Id.* § 5.)

***§ 147. Violation of act—Penalty—Fines.**

Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction, may be fined not less than fifty dollars, or more than two hundred dollars, or be confined six months in the county jail. All fines received under this act shall be paid into the common-school fund of the county in which such conviction takes place. (*Id.* § 6.)

***§ 148. License fees—Compensation of board—Report of fees.**

In order to provide the means for carrying out and maintaining the provisions of this act the said board of examiners may charge each person applying to or appearing before them for examination for a certificate of qualification a fee of ten dollars, which fee shall in no case be returned, and out of the funds coming into the possession of the board from the fees so charged the members of said board may receive as compensation the sum of five dollars for each day actually engaged in the duties of their office, and all legitimate and necessary expenses incurred in attending the meetings of said board. Said expenses shall be paid from the fees and penalties received by the board under the provisions of this act, and no part of the salary or other expenses of the board shall ever be paid out of the state treasury. All moneys received in excess of said per diem allowance, and other expenses above provided for, shall be held by the secretary of said board as a special fund for meeting the expenses of said board and carrying out the provisions of this act, he giving such bond as the board shall from time to time direct. And said board shall make an annual report of its proceedings to the governor by the fifteenth of December of each year, together with an account of all moneys received and disbursed by them pursuant to this act. (*Id.* § 7.)

***§ 149. Registry of certificates—Neglect—Penalty.**

Any person who shall receive a certificate of qualification from said board shall cause his or her certificate to be registered with the clerk of the court of any county or counties in which such persons may desire to engage in the

practice of dentistry, and the clerks of the court of the several counties in the state shall charge for registering such certificate a fee of twenty-five cents for such registration. Any failure, neglect, or refusal on the part of any person holding such certificate to register the same with the clerk of court, as above directed, for a period of six months, shall work a forfeiture of the certificate, and no certificate, when once forfeited, shall be restored, except upon the payment to the said board of examiners of the sum of twenty-five dollars as a penalty for such neglect, failure, or refusal. (*Id.* § 8.)

***§ 150. False representations of qualifications—Penalty.**

Any person who shall knowingly and falsely claim or pretend to have or hold a certificate of license, diploma, or degree granted by any society, or who shall falsely, and with intent to deceive the public, claim or pretend to be a graduate from any incorporated dental college, not being such graduate, shall be deemed guilty of a misdemeanor, and shall be liable to the same penalty as provided in section six of this act. (*Id.* § 9.)

PRACTICE OF PHARMACY.*

***§ 151. Unauthorized practice of pharmacy unlawful.**

That it shall hereafter be unlawful for any person other than a registered pharmacist to retail, compound, or dispense drugs, medicines, or poisons, or to institute or conduct any pharmacy, store, or shop for retailing, compounding, or dispensing drugs, medicines, or poisons, unless such person shall be a registered pharmacist, or shall employ and place in charge of said pharmacy, store, or shop a registered pharmacist, within the full meaning of this act, except as hereinafter provided. (1885, c. 147, § 1.)

***§ 152. Qualifications for registration.**

In order to be registered, within the full meaning of this act, all persons must be either graduates in pharmacy, graduates in medicine, or shall, at the time this act takes effect, be engaged in the business of a dispensing pharmacist on their own account, in the state of Minnesota, in the preparation of physicians' prescriptions, and in the vending and compounding of drugs, medicines, and poisons, or shall be licentiates in pharmacy: *providing, however*, that graduates in medicine shall be entitled to registration under this act, upon the same terms as graduates in pharmacy. (*Id.* § 2, *as amended* 1887, c. 29.)

***§ 153. "Graduates in pharmacy" defined.**

Graduates in pharmacy shall be considered to consist of such persons as have had four years' practical experience in drug stores where prescriptions of medical practitioners are compounded, and have obtained a diploma from such college or schools of pharmacy as shall be approved by the board of pharmacy as sufficient guaranty of their attainments and proficiency. (1885, c. 147, § 3.)

***§ 154. Licentiates in pharmacy.**

Licentiates in pharmacy shall be such persons as have had three years' practical experience in drug stores wherein the prescriptions of medical practitioners are compounded, and have sustained a satisfactory examination before the state board of pharmacy, hereinafter mentioned. The state board may grant certificates of registration to licentiates of such other state boards as it may deem proper, without further examination. (*Id.* § 4.)

*"An act to regulate the practice of pharmacy, the licensing of persons to carry on such practice, and the sale of poisons in the state of Minnesota." Approved March 5, 1885.

***§ 155. State board of pharmacy—Appointment—Term—Vacancies.**

Immediately upon the passage of this act the Minnesota State Pharmaceutical Association shall elect fifteen reputable and practicing pharmacists doing business in the state, from which number the governor shall appoint five. The said five pharmacists, duly elected and appointed, shall constitute the board of pharmacy of the state of Minnesota, and shall hold office, as respectively designated in their appointments, for the term of one, two, three, four, and five years, respectively, as hereinafter provided, and until their successors have been duly elected and appointed. The Minnesota State Pharmaceutical Association shall annually thereafter elect five pharmacists, from which number the governor of the state shall appoint one, to fill the vacancy annually occurring in said board. The term of office shall be five years. In case of resignation or removal from the state of any member of said board, or of a vacancy occurring from any cause, the governor shall fill the vacancy by appointing a pharmacist from the names last submitted, to serve as a member of the board for the remainder of the term. (1885, c. 147, § 5.)

***§ 156. Same—Meetings—Officers—Duties.**

The said board shall, within sixty days after its appointment, meet and organize by the selection of a president and secretary from the number of its own members, who shall be elected for the term of one year, and shall perform the duties prescribed by the board. It shall be the duty of the board to examine all applications for registration submitted in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this act; to cause the prosecution of all persons violating its provisions; to report annually to the governor and to the Minnesota State Pharmaceutical Association, upon the condition of pharmacy in the state, which said report shall also furnish a record of the proceedings of the said board for the year, as well as the names of all pharmacists duly registered under this act. The board shall hold meetings for the examination of applicants for registration, and transaction of such other business as shall pertain to its duties, at least once in three months. And the said board shall give thirty days' public notice of the time and place of such meeting. The said board shall also have power to make by-laws for the proper execution of its duties under this act, and shall keep a book of registration in which shall be entered the names and places of business of all persons registered under this act, which registration book shall also contain such facts as such persons claim to justify their registration. Three members of said board shall constitute a quorum. (*Id.* § 6.)

***§ 157. Registration of practitioners.**

Every person claiming the right of registration under this act, who shall, within three months after the passage of this act, forward to the board of pharmacy satisfactory proof, supported by his affidavit, that he was engaged in the business of dispensing pharmacist on his own account in the state of Minnesota at the time of the passage of this act, as provided in section two, shall, upon the payment of the fee hereinafter mentioned, be granted a certificate of registration: *provided*, that in case of failure or neglect to register as herein specified, then such person shall, in order to be registered, comply with the requirements provided for registration as graduates in pharmacy or licentiates in pharmacy within the meaning of this act. (*Id.* § 7.)

***§ 158. Registered assistants—Applicants of seven years' experience.**

Any person engaged in the position of assistant in a pharmacy at the time this act takes effect, not less than eighteen years of age, who shall have had

at least three years' practical experience in drug stores where the prescriptions of medical practitioners are compounded, and who shall furnish satisfactory evidence to that effect to the state board of pharmacy, shall, upon making application for registration, and upon payment to the secretary of said board of a fee of one dollar, within ninety days after this act takes effect, be entitled to a certificate as "registered assistant," which certificate shall entitle him to continue in such duties as clerk or assistant; but shall not entitle him to engage in business on his own account. Thereafter he shall pay annually to the said secretary the sum of fifty cents during the time he shall continue in such duties, in return for which sum he shall receive a renewal of said certificate: *provided*, any applicant who has had seven years' experience in compounding and dispensing medicines, immediately prior to the passage of this act, may receive a certificate of "registered pharmacist." (*Id.* § 8.)

***§ 159. Registration fees.**

Every person claiming registration as a registered pharmacist under section seven of this act shall, before a certificate is granted, pay to the secretary of the state board of pharmacy the sum of two dollars, and a like sum shall be paid to said secretary by graduates in pharmacy and by such licentiates of other boards who shall apply for registration under this act. And every applicant for registration by examination shall pay to the said secretary the sum of five dollars before such examination be attempted: *provided*, that in case the applicant fails to sustain a satisfactory examination by the said board, the said five dollars shall be refunded to him. (*Id.* § 9.)

***§ 160. Renewal of registration.**

Every registered pharmacist, who desires to continue the practice of his profession, shall annually, during the time he shall continue such practice, on such date as the board of pharmacy may determine, pay to the secretary of said board a registration fee, the amount of which shall be fixed by the board, and which in no case shall exceed two dollars, in return for which payment he shall receive a renewal of said registration. Every certificate of registration, and every renewal of such certificate, shall be conspicuously exposed in the pharmacy to which it applies. (*Id.* § 10.)

***§ 161. Salaries and expenses—Disposition of fees.**

The secretary of the board of pharmacy shall receive a salary which shall be determined by said board. He shall also receive his traveling and other expenses incurred in the performance of his official duties. The other members of said board shall receive the sum of five dollars for each day actually engaged in such service, and all the legitimate and necessary expenses incurred in attending the meetings of said board. Said expenses shall be paid from the fees and penalties received by said board under the provisions of this act; and no part of the salary or other expenses of said board shall be paid out of the public treasury. All moneys received by said board in excess of said allowances and other expenses hereinbefore provided for, shall be held by the secretary of said board as a special fund for meeting the expenses of said board, said secretary giving such bonds as the said board shall from time to time direct. The said board shall, in its annual report to the governor and to the Minnesota State Pharmaceutical Association, render an account of all moneys received and disbursed by them pursuant to this act. (*Id.* § 11.)

***§ 162. Penalties.**

Any person not being or not having in his employ a registered pharmacist, within the full meaning of this act, who shall, after the expiration of ninety days from the passage of this act, retail, compound, or dispense medicines, or who shall take, use, or exhibit the title of a registered pharmacist, shall for each and every such offense be liable to a penalty of fifty dollars. Any registered

pharmacist or other person who shall permit the compounding and dispensing of prescriptions or the vending of drugs, medicines, or poisons in his store or place of business, except under the supervision of a registered pharmacist, or except by a "registered assistant," or any pharmacist or "registered assistant," who, while continuing in business, shall fail or neglect to procure his annual registration, or any person who shall willfully make any false representation to procure registration for himself or any other person, or who shall violate any other provision of this act, shall, for each and every such offense, be liable to a penalty of fifty dollars: *provided*, that nothing in this act shall in any manner interfere with the business of any physician in regular practice, or prevent him from supplying to his patients such articles as may seem to him proper, nor with the making of proprietary medicine or medicines placed in sealed packages with the name of the contents and of the pharmacist or physician by whom prepared or compounded, nor prevent shopkeepers whose place of business is more than one mile from a drug or apothecary shop from dealing in and selling the commonly used medicines and poisons, if such medicines and poisons are put up by a registered pharmacist, or from dealing in and selling of patent or proprietary medicines, nor with the exclusively wholesale business of any dealers, except as heretofore provided. (1885, c. 147, § 12.)

***§ 163. Adulteration, etc.—Penalty.**

Every proprietor or conductor of a drug store shall be held responsible for the quality of all drugs, chemicals, and medicines sold or dispensed by him, except those sold in the original package of the manufacturer, and except those articles or preparations known as patent or proprietary medicines. Any person who shall knowingly, willfully, or fraudulently falsify or adulterate, or cause to be falsified or adulterated, any drug or medicinal substance, or any preparation authorized or recognized by the pharmacopœia of the United States, or used or intended to be used in medical practice; or shall mix or cause to be mixed, with any such drug or medicinal substance, any foreign or inert substance whatsoever, for the purpose of destroying or weakening its medicinal power and effect, or of lessening its cost, and shall willfully, knowingly, or fraudulently, sell or cause the same to be sold, for medicinal purposes, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a penalty not exceeding five hundred dollars, and shall forfeit to the state of Minnesota all articles so adulterated. (*Id.* § 13.)

***§ 164. Sale of poisons.**

No person shall sell at retail any poisons commonly recognized as such, and especially aconite, arsenic, belladonna, biniiodide of mercury, carbolic acid, chloral hydrate, chloroform, conium, corrosive sublimate, creasote, croton oil, cyanide of potassium, digitalis, hydrocyanic acid, laudanum, morphine, nux vomica, oil of bitter almonds, oil tansy, opium, oxalic acid, strychnine, sugar of lead, sulphate of zinc, white precipitate, red precipitate, without affixing to the box, bottle, vessel, or package containing the same, and to the wrapper or cover thereof, a label bearing the name "poison" distinctly shown, together with the name and place of business of the seller. Nor shall he deliver any of the said poison to any person without satisfying himself that such poison is to be used for legitimate purposes: *provided*, that nothing herein contained shall apply to the dispensing of physicians' prescriptions specifying any of the poisons aforesaid. Any person failing to comply with the requirements of this section shall be deemed guilty of a misdemeanor, and shall be liable to a fine of not less than five dollars for each and every such omission. (*Id.* § 14.)

***§ 165. Prosecutions—Fines.**

All suits for the recovery of the several penalties prescribed in this act shall be prosecuted in the name of the "State of Minnesota," in any court having

jurisdiction; and it shall be the duty of the county attorney of the county wherein such offense is committed, to prosecute all persons violating the provisions of this act, upon proper complaint being made. All penalties collected under the provisions of this act shall inure one-half to the board of pharmacy and the remainder to the school fund of the county in which the suit was prosecuted and judgment obtained. (*Id.* § 15.)

***§ 166. Repeal.**

All acts or portions of acts regulating the practice of pharmacy and the sale of poisons, or the adulteration of drugs, within this state, enacted prior to the passage of this act, are hereby repealed: *provided*, that nothing in this act shall be so construed as to prevent any person who has once been a registered member, and may have forfeited his membership by non-payment of dues or fees, from renewing his membership within two years by paying the required dues or fees, without examination. (*Id.* § 16.)

***§ 167. Exemption from jury duty.**

All persons registered under this act shall be exempt from jury duty in the state of Minnesota. (*Id.* § 17.)

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***§ 168. Threatened epidemic — Powers of state board of health.**

Whenever any part of this state appears to be threatened with, or is affected by, any epidemic or infectious disease, the state board of health may make, and from time to time alter and revoke, regulations for all or any of the following, among other purposes:

1. For the speedy interment of the dead.
2. For house to house visitation.
3. For the provision of medical aid and accommodation for patients, physicians, and nurses.
4. For the promotion of cleansing, ventilation, and disinfection; and,
5. Guarding against the spread of disease by quarantine or exclusion of any infected persons; and may by order declare all or any of the regulations so made to be in force within the whole or any part or parts of the district of any local board of health in this state, and to apply to any vessels on any of the waters of this state, or to any railway cars or trains, or public vehicles of any kind, for the period named in such order, and may by any subsequent order abridge or extend such period. (1883, c. 132, § 1.)

***§ 169. Orders of board—Publication.**

All regulations and orders so made by the state board of health shall be published in some paper of general circulation published at the capital of the state, and also in some paper published in the county where such disease may exist; and such publication shall be conclusive evidence thereof for all purposes. (*Id.* § 2.)

***§ 170. Orders—Enforcement by local boards.**

The local board of health of any district or districts within which, or part of which, regulations so issued by the state board of health are declared to be in force, shall superintend and see to the execution thereof, and shall appoint and pay such medical or other officers or persons, and do and provide all such

* "An act relating to infectious and epidemic diseases, and the preservation of the public health." Approved March 3, 1883. § 31 repeals all inconsistent acts and parts of acts.

See "An act to prevent the pollution of rivers and sources of water supply." Laws 1885, c. 225; *ante*, c. 6, *§§ 99a-99f.

acts, matters, and things as may be necessary for mitigating or preventing the spread of any such disease, or for superintending or aiding in the execution of or executing such regulations as the case may require. Said local board may also from time to time direct any prosecution or legal proceedings for or in respect of the willful disregard or neglect of any such regulation, or any regulation duly made and established by said local board. Said local boards shall have power of entry on any premises, vessel, or vehicle, for the purpose of executing, or superintending the execution, of any regulations so issued by said state board of health or said local board. (1883, c. 132, § 3.)

***§ 171. Local boards—Constitution—Duties—Health-officer.**

The town supervisors of each town, together with a physician, to be employed by said supervisors when in their judgment necessary, or when ordered by the state board of health, shall constitute a board of health, and all villages, boroughs, and cities shall have a board of health, to be chosen and to consist of the number hereafter provided, anything in the charter of any such village, borough, or city to the contrary notwithstanding. Such boards shall, within their respective towns, villages, boroughs, and cities, have and exercise all the powers necessary for preservation of the public health. Said village, borough, or city board shall consist of not less than three members, one of whom shall be a physician, and such physician shall be health-officer, and executive of the board, and shall receive such compensation for his services as the council, or other body answering thereto, of the village, borough, or city, shall determine. Said board shall be elected by the council, or other body answering thereto, of each village, borough, and city, on the first Monday of April, A. D. one thousand eight hundred and eighty-five. One member of such board shall be elected for and hold such office for the term of three years, one for two years, and one for one year, and one member of such board shall be so elected annually thereafter, and all vacancies occurring in said board shall be filled in like manner. It shall be the duty of the health officer to perform and superintend the work prescribed in this act, and shall perform such other duties as the board may require. He shall furnish to the board such information cognate to this act as from time to time they may deem necessary, and to make once in each year, in the month of May, and oftener if necessary, a thorough sanitary inspection of said town, village, or borough, or city, and present a written report of such inspection at the next meeting of the board of health, and he shall forward a copy of said report as soon as rendered to the state board of health; and he may, at any time when necessary, examine into all nuisances, sources of filth, and causes of sickness, and said board may make such regulations respecting the same as they may judge necessary for the public health and safety of the inhabitants, and every person who shall violate any order or regulation made by any board of health, and duly published, shall be deemed guilty of misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months. (*Id.* § 4, as amended 1885, c. 4, § 1.)

***§ 172. Publication of orders, etc.**

Notice shall be given by the board of health of all orders and regulations made by them, by publishing the same in some newspaper, if there is one published in such town; if there is none, then by posting up such notice in five public places therein; and such publication of said orders and regulations shall be deemed a legal notice to all persons. (1883, c. 132, § 5.)

***§ 173. Nuisances—Abatement.**

Whenever any nuisance, source of filth, or cause of sickness is found on private property, the board of health shall order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours; and if the owner or occupant neglects so to do, he shall forfeit a sum not exceeding fifty

dollars, to be recovered in the name of, and for the use of, the town, city, or village. (*Id.* § 6.)

***§ 174. Same.**

Whenever such owner or occupant shall not comply with such order of the board of health, said board may cause the said nuisance, source of filth, or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the said owner or occupant, or by such other person as has caused or permitted the same. (*Id.* § 7.)

***§ 175. Health-officer—Proceedings to obtain entrance to building, etc.**

Whenever the board of health thinks it necessary, for the preservation of the health of the inhabitants, to enter any building or vessel in their town for the purpose of examining into and destroying, removing, or preventing any nuisance, source of filth, or cause of sickness, and shall be refused such entry, the health-officer or any member of the board may make complaint under oath to a justice of the peace of his own town, stating the facts in the case so far as he has knowledge thereof. (*Id.* § 8.)

***§ 176. Same—Warrant.**

Such justice shall thereupon issue a warrant, directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and, being accompanied by two or more of the board of health, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same destroy, remove, or prevent, under the direction of the members of such board of health. (*Id.* § 9.)

***§ 177. Violation of duty—Penalty.**

All local boards of health and health-officers shall make such investigations and reports, and obey such directions as to infectious diseases, as shall be directed by the state board of health. And any member of any board of health, or health-officer, who shall neglect to perform the duties required of him under the provisions of this act, or any other act relating to the duties of the board of health, or health-officers of this state, or who shall neglect or refuse to obey any reasonable directions as to infectious diseases as shall be directed by the state board of health, shall be liable, upon conviction in any court having competent jurisdiction, to be fined in a sum not less than twenty-five dollars, or more than one hundred dollars, and shall become disqualified from holding the office of a member of the board of health. (*Id.* § 10.)

***§ 178. Local boards—Proceedings for disinfection, etc.**

When any local board of health are of the opinion that the cleansing and disinfection of any house, building, car, vessel, or vehicle, or any part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, it shall be the duty of such authority to give notice in writing to the owner or occupier of such house, vessel, or vehicle, or part thereof, requiring him to cleanse and disinfect such house, vessel, or vehicle, and the said articles, within a time specified in said notice. If the person to whom notice is so given fails to comply therewith, he shall be liable to a fine of not less than twenty-five dollars nor more than one hundred dollars for every day during which he continues to make default, and said board shall cause such house, vessel, or vehicle and articles to be cleansed and disinfected, and may recover the expenses incurred, and said fine and costs of prosecution, in a civil action before any justice of the peace or court having jurisdiction in like cases, which sum when recovered shall be placed to the credit of a special fund, for the purposes of said local board of health, [to be used] by said board

for general expenses: *provided*, that where the owner or occupier of any such house, vessel, or vehicle is, from poverty or otherwise, unable in the opinion of said local board effectually to carry out the requirements of said board in said notice, such authority may, without enforcing such requirements on such owner or occupier, with his consent, cleanse and disinfect such premises and articles, and defray the expenses thereof. (1883, c. 132, § 11.)

***§ 179. Same—Destruction of property—Conveyances.**

Any local board may direct the destruction of any bed or bedding, clothing, carpets, or other articles which have been exposed to infection from contact with infected persons or articles, and may allow compensation for the same, or may provide a proper place, with all necessary apparatus and attendance for the disinfection of such articles, and may cause any articles brought for disinfection to be disinfected thereby, and said board may provide and maintain when necessary a carriage or carriages suitable for the conveyance of such articles, or of persons suffering under any infectious disorder, and may pay the expense of conveying therein any person so suffering to a hospital or other place of destination. (*Id.* § 12.)

***§ 180. Infected persons—Removal to hospital, etc.**

Where any suitable hospital or place for the reception of the sick is provided within the district of any local board, or within a convenient distance of such district, any person who is suffering from any dangerous infectious disorder, and is without proper lodging or accommodation, or lodged in a room occupied by more than one family, or is on board any vessel, cars, or other vehicle, may, on a certificate signed by a qualified medical practitioner, or the executive officer of said board, and with the consent of the superintending body of such hospital or place, be removed by order of any justice to such hospital or place at the cost of the local district; and any person so suffering, who is lodged in any common lodging or boarding house, may, with the like consent, and on a like certificate, be so removed by order of the local board. An order under this section may be addressed to such constable or officer as the justice or local authority making the same may think expedient; and any person who willfully disobeys or obstructs the execution of said order shall be liable to a fine not exceeding fifty dollars, to be recovered on criminal complaint, and the sum so recovered shall be paid over to said board for general expenses thereof. (*Id.* § 13.)

***§ 181. Local boards—Joint action.**

The state board of health may, by order, require any two or more local boards to act together for the purposes of the provisions of this act, for the prevention of epidemic diseases. (*Id.* § 14.)

***§ 182. Infected strangers—Removal, etc.**

When any person coming from abroad, or residing in any town, village, borough, or city within this state, is infected, or lately has been infected, with the small-pox or other contagious disease dangerous to the public health, the board of health of the town, village, borough, or city where such sick or infected person is, may immediately cause such person to be removed to a separate house, if it can be done without danger to his health, and shall provide for such person or persons, nurses, medical attendance, and other necessaries, which shall be a charge in favor of such town, village, borough, or city upon the person so provided for, his parents, guardian, or master, if able; otherwise upon the county in which he has a legal settlement, or upon the state, if said person be a non-resident of the state and has no property within the state; in which latter case the bills for such expenses shall be paid only after being audited and approved by the state board of health and by the governor, and said bills shall be allowed only on condition that the local board of health shall

have promptly, on the appearance of such disease, notified the state board of health thereof, and shall have followed the instructions and regulations of said state board given with respect to the care and expense in the case or cases in reference to which said bills were incurred; and, further, shall file satisfactory evidence to said state board that such person or persons were non-residents of the state, and have no property within the same. The town, village, borough, or city, as the case may be, may recover in a civil action against the person or persons, or the county, chargeable under this section. (*Id.* § 15.)

[Five hundred dollars appropriated for the purpose of carrying out section 15, by Gen. Laws 1887, c. 216.]

***§ 183. Same.**

If such infected person cannot be removed without danger to his health, the board of health shall make provision as directed in the preceding section for such person in the house where he may be, and in such case they may cause the persons in the neighborhood to be removed, and [may take such measures as they] may deem necessary for the safety of the inhabitants. (*Id.* § 16.)

***§ 184. Providing hospital.**

When a disease dangerous to the public health breaks out, the board shall immediately provide such hospital or place of reception for the sick and infected as is judged best for their accommodation, and the safety of the inhabitants, which shall be subject to the regulations of the board; and the board may cause any sick and infected persons to be removed thereto, unless his condition will not admit of such removal without danger to his health, in which case the house or place where he remains shall be considered as a hospital, and, with all its inmates, subject to the regulations of the board. (*Id.* § 17.)

***§ 185. Quarantine—Notice to state board.**

[It] shall be the duty of all local boards of health, whenever they are informed that there is a case of small-pox, scarlet fever, diphtheria, or other infectious or contagious disease within the territory over which it has jurisdiction, to immediately examine into the facts of the case, and if the disease appears to be of the character above specified, they shall adopt such quarantine and sanitary measures as may in their judgment tend to prevent the spread of said disease in its locality, subject to be modified by the state board of health, and shall immediately notify the secretary of said state board of the appearance of such disease, and the measures adopted by said local board in relation thereto. (*Id.* § 18.)

***§ 186. Same—Posting notice—Violation of duty—Penalty.**

And said board of health shall have power to forbid, by notices posted upon the entrances to premises where there may be a patient sick with such disease, any person, except the medical attendants and spiritual advisers, from going to or leaving said premises without their permission, or carrying, or causing to be carried, any material whereby said disease may be conveyed, until after said disease has abated, and the premises, dwelling, and clothing have been rendered free from disease by such disinfecting means as the board may direct; and if said board shall be informed that the above, or any reasonable or sanitary measures which they have adopted and made public, is or has been violated, then the said board may cause said offender against this act to be apprehended and brought before an officer having jurisdiction; and said offender shall, upon conviction, be liable to a fine in the sum of not less than five dollars nor more than twenty-five dollars for any violation under this act. Any member of any board of health who shall neglect his duties under the provisions of this act, shall be liable, upon conviction in a court having competent jurisdiction, to be fined in a sum not less than twenty-five dollars nor

more than one hundred dollars for the first offense; and for conviction for violation of this act the second time, shall, in addition to the fines already provided, become disqualified from holding the office of, or to which is attached the duties of, a member of a board of health. (1883, c. 132, § 19.)

***§ 187. Fines—Disposition—Physician's report.**

All fines collected under this act shall be placed to the credit of a special fund of the city, village, or town in which the offense is committed, for the use and expenses of said board. That every physician shall report to the local board of health, in writing, every person having a contagious disease, and the state of his or her disease, and his or her place of dwelling, and name, if known, which such physician has prescribed for or attended for the first time since having a contagious disease, or since the discovery of the same to be contagious, during any part of the preceding twenty-four hours; but not more than two reports shall be required in one week concerning the same person; but every attending physician thereat must see that such report is or has been made by some attending physician. (*Id.* § 20.)

***§ 188. Physician's report of deaths.**

That it shall be the duty of each and every practicing physician in this state, to report in writing to the local board of health the death of any of his patients who shall have died of contagious or infectious disease, within twenty-four hours thereafter, and to state in such report the specified [specific] name and type of such disease. (*Id.* § 21.)

***§ 189. Report by inn-keepers, etc.**

That every keeper of any private house, boarding-house, or lodging-house, and every inn-keeper and hotel-keeper, shall, within twenty-four hours, report in writing to the local board of health the same particulars required of any physician in the preceding section, concerning any person being at any of the aforesaid houses and hotels, and attacked with any contagious disease dangerous to the public health. (*Id.* § 22.)

***§ 190. Duty of reporting contagious diseases.**

That it shall be the duty of every person knowing of any person sick of any contagious disease dangerous to the public health, and the duty of every physician hearing of any such sick person, who he shall have reason to think requires the attention of the local board, to at once report the facts to the board in regard to the disease, condition, and dwelling place or position of such sick person. (*Id.* § 23.)

***§ 191. Removal of infected persons prohibited.**

That no person shall, within the limits of any town, city, or village within this state, without a permit from the local or state board of health, carry or remove from one building to another, or from a vessel to the shore, or on any railway cars, any person sick of any contagious disease, or the body of any person having died of contagious disease; nor shall any person, by any exposure of any individual sick of any contagious disease, or of the body of such person, or by any negligent act connected therewith, or in respect to the care and custody thereof, or by a needless exposure of himself, cause, or contribute to, or promote, the spread of disease from any such person or from any dead body. (*Id.* § 24.)

***§ 192. Vaccination.**

That every person, being the parent or guardian, or having the care, custody, or control, of any minor or other person, shall, to the extent of any means, power, or authority of said parent, guardian, or other person, that could properly be used or exerted for such purpose, cause and procure such

minor or person under control to be so promptly, frequently, and effectively vaccinated that such minor or individual should not take, or be liable to take, the small-pox. (*Id.* § 25.)

***§ 193. Precautions in schools.**

That no principal, superintendent, or teacher of any school, and no parent, master, or guardian of any child or minor, having the power and authority to prevent, shall permit any child or minor having scarlet fever, diphtheria, small-pox, or any dangerous, infectious, or contagious disease, or any child residing in any house in which any such disease exists, or has recently existed, to attend any public or private school until the board of health of the town, village, borough, or city shall have given its permission therefor; nor in any manner to be unnecessarily exposed, or to needlessly expose any other person, to the taking or to the infection of any contagious disease. (*Id.* § 26.)

***§ 194. Time for burials.**

That no person shall allow to be retained unburied the dead body of any human being for a longer time than four days, or where death has been caused by a contagious disease for a longer time than twenty-four hours, after the death of such person, without a permit from the local board of health, which permit shall specify the length of time during which such body may be retained unburied; and when death has been caused by a contagious disease, the body shall, if directed by said board, be immediately disinfected in such manner as may be directed by said board, and inclosed in a tightly-sealed coffin, which shall not thereafter be opened, and the funeral of such person shall be strictly private, and in the removal thereof, for burial or otherwise, hearses or such other vehicles as may be authorized by said board only shall be employed. (*Id.* § 27.)

***§ 195. Employment of assistants and physicians—Providing necessaries.**

Said boards of health may employ all such persons as shall be necessary to carry into effect the provisions of this act, and the regulations duly established by said boards as herein provided, and may fix their compensation. The said boards shall have power to employ physicians, and provide necessaries for persons in cases of poverty, and generally to pay such expenses as are necessarily incurred by them in taking precautions which they may deem necessary to the public health. (*Id.* § 28.)

***§ 196. Defrayment of expenses—Taxation.**

All expenses so incurred for the control of infectious diseases, etc., by any town or village board of health, hereafter shall be audited by the county commissioners, and paid out of the county treasury by orders on the treasurer drawn by the county auditor, and paid out of the general revenue fund of the county as other claims against the county are audited and paid. All expenses hereinafter incurred by any city board of health shall, in the first instance, be borne and paid out of the city treasury. The proper authorities of said city shall certify the amount required to reimburse said city to the county auditor at the time of certifying other taxes, and such auditor shall extend on the tax-list of the county a tax sufficient to pay the amount so certified, which tax shall be collected as other taxes, and paid over to the treasurer of such city. (*Id.* § 29, as amended 1885, c. 4, § 2.)

***§ 197. Violation of act, etc.—Penalty—Fines.**

Any person who shall willfully violate any of the provisions of this act, or of any regulations duly made and published by any of the boards of health herein mentioned,—the penalty for which is not herein specifically provided.

for,—shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine not to exceed one hundred dollars or imprisonment not to exceed thirty days, or both such fine and imprisonment. All amounts so collected shall be paid to the town, village, or city treasurer and placed to the credit of a special fund for the purposes and expenses of the said local boards of health. (1883, c. 192, § 30.)

PROTECTION AGAINST FIRE.*

***§ 198. Duty of providing protection.**

The proprietors and lessees of all buildings of two or more stories in height, used or occupied as tenements, lodging-rooms, boarding-houses, hotels, public halls, or places of amusement, schools, seminaries, hospitals, asylums, work-houses, jails, or manufactories, shall provide for and equip said buildings with such protection against fire and escape from said buildings as shall be hereinafter set forth in this bill. (1883, c. 133, § 1.)

***§ 199. Classification of buildings.**

The classification of buildings shall be as follows:

First. Hotels of two stories in height, with ten or more sleeping-rooms.

Second. Hotels or lodging-rooms of three or more stories in height.

Third. Tenements or boarding-houses of three or more stories in height, occupied by one or more families, consisting of more than twenty persons: *provided*, a mansard roof or attic, when used as sleeping-rooms, shall be counted as one story.

Fourth. Buildings used as opera-houses, theaters, or public halls, of a seating capacity exceeding three hundred.

Fifth. Public school buildings, seminaries, academies, and colleges more than two stories in height.

Sixth. Hospitals and asylums of two or more stories in height.

Seventh. Jails, work-houses, or other prisons for confinement of persons under sentence of crime or misdemeanor.

Eighth. Manufactories over two stories in height, employing above the first story more than twenty-five persons. (*Id.* § 2.)

***§ 200. Appliances.**

Provides for the appliances to be used as follows:

Buildings under classification one of section two of this act. Each two thousand five hundred superficial feet of area, or fractional part thereof, covered by said building, shall be provided with either an inside stand-pipe of not less than one and one-quarter inches inside diameter, with hose connection and hose of sufficient length always attached, in the hall into which the sleeping-rooms open, and this stand-pipe supplied by means of connection with public or private water-works, which will furnish sufficient pressure; or one chemical fire-extinguisher kept near the public stairway or other convenient locality in the hallway, always charged ready for use.

Buildings under classification two. Each six thousand superficial feet of area covered by said building shall be provided with either an inside stand-pipe of not less than one and three-quarters inches inside diameter, and sufficient hose connected with it, of not less than one and one-quarter inches inside diameter, on each floor, and furnished with a constant water-pressure by water-works, or by a steam-pump, which can be put in action at [a] moment's notice; or for six thousand superficial feet of area covered by said building there shall be one two and one-half inch (or larger) metallic stand-pipe, with metallic ladder attached above the first story, located upon the outside of the

*"An act for the preservation of life and the protection of travelers." Approved March 2, 1883. Took effect from and after July 1, 1883.

wall, and extending above the roof, and so situated as to give access to or exit from each story and roof above the first, arranged with valves and male-hose connections at each story above the first and roof, and with single or double female-hose connection at base of pipe, so that engine hose can be attached from street; the hose couplings to conform to the size and pattern used by the fire department where located. There shall also be provided for each eight thousand and five hundred superficial feet of area, or fractional part thereof, covered by said building, at least one chemical fire-extinguisher on each floor occupied as sleeping apartments: *provided*, that in hotels, where every three thousand and five hundred superficial feet is protected by stand-pipe and hose, as set forth in this act, then only one chemical fire-extinguisher shall be required on each floor occupied as sleeping apartments. In case the stand-pipe and hose first mentioned is not practicable, for want of water-works or steam to work pumps, then, in addition to the extinguisher provided for, there shall be placed in each hallway of floors used as sleeping-rooms, for each two thousand five hundred superficial feet of area, one barrel of water, with two pails, with the words "For fire purposes only" painted thereon. Each sleeping apartment above the second story shall be furnished with a rope or any other practical fire-escape of sufficient length to reach the ground. A red light shall be kept burning all night, located at the head of each stairway above the first floor; also one on each floor above the first, at, or near the exit to the stationary fire-escape, if any. The following printed notice shall be posted in a conspicuous place in each sleeping-room above the first floor: "Exit in case of fire. Upon leaving this room turn to the (right or left) and by passing (give number of feet) feet you will reach a red light, which indicates (stairway or fire-escape.)"

Buildings under classification three of section two of this act shall have for each five thousand superficial feet of area covered by said building, at least one outside stand-pipe, two and one-half inches or larger, as provided for in classification two, and at least one non-combustible ladder or stairway for each twenty persons occupying said building above the first story.

Buildings under classification four of section two of this act shall be provided with at least one stand-pipe running to the stage, and furnished with hose always connected, and of sufficient length to reach all parts of the stage; also with a chemical fire-extinguisher always charged and placed in a convenient place to protect the scenery; or, in case the stand-pipe should be impracticable for want of constant water-pressure, then the stage shall be provided with two chemical fire-extinguishers, and at least one barrel of water and two pails, with the words "For fire purposes only" painted thereon. It is provided, however, that this shall not apply to halls where no stage with curtains or scenery is used; and all buildings under this classification shall have such number of exits of such area, and such number of non-combustible stairways, ladders, or fire-escapes, as the mayor, chief engineer of fire department, and chief of police of any city, or president of any town or village council, chief engineer or fire-warden, and chief of police or constable of any town or village, or a majority of them, may from time to time determine.

Buildings under classification five of section two shall be provided, where practicable, with inside stand-pipe, as provided in classification two, or an outside stand-pipe, as provided in same classification; also, one chemical fire-extinguisher on each floor above the first. There shall also be provided such number of exits of such area, and such number of non-combustible ladders or stairways, as the persons named in classification four, or a majority of them, may determine.

Buildings under classification six of section two shall be provided for in the same manner as those under head of classification five.

Buildings under classification seven of section two shall be provided with either a stand-pipe and sufficient hose connected on each floor with con-

stant water pressure, or shall have a chemical fire-extinguisher on each floor. It is provided, however, that this shall not apply to buildings built of stone, brick, or iron, with non-combustible partitions and roof practically fire-proof.

Buildings under classification eight of section two of this act, for each two thousand five hundred superficial feet of area covered by said building, shall be provided with an inside stand-pipe of not less than one and one-half inches diameter, and sufficient hose connected therewith of not less than one and one-quarter inches inside diameter on each floor, and furnished with a constant water pressure by water-works, or by steam or other pump, which can be put in motion at a moment's notice; or for each five thousand superficial feet of area covered by said building, there shall be one two and one-half inch or larger metallic stand-pipe, with metallic ladder attached, above the first story, located and arranged as provided for in classification two; also, one chemical fire-extinguisher located on each floor above the first. There shall also be provided for every forty persons employed above the second story, one non-combustible stairway, or for every twenty persons one non-combustible ladder, located upon the outside of the building, accessible from roof and each story above the first, and reaching to or within twelve feet of the ground or sidewalk.

Also provides that all stand-pipes, ladders, and non-combustible stairways required by this section shall be provided by the owner or owners of the building, and all other requirements of this section shall be provided by the lessees of such building, unless otherwise agreed upon between the owner or owners and lessees. (1883, c. 133, § 3.)

***§ 201. Fire-extinguishers.**

Provides that the chemical fire-extinguisher to be used shall be the one in general use in the fire departments, factories, and public buildings in the state of Minnesota, and known as the Babcock or Champion portable fire-extinguisher. (*Id.* § 4.)

***§ 202. Duty of enforcing act—Violation of act—Penalty.**

It is hereby made the duty of every fire-warden, marshal, or chief of police of every incorporated town, village, or city, or, where such officers are not provided for, the board of education, directors of school-districts, and boards of county commissioners, to enforce this act, and any person failing to comply with the provisions of this act within thirty days after being notified by the proper officer in writing, shall pay or forfeit the sum of one hundred dollars, with cost of prosecution of the same, to be enforced by civil action before any competent tribunal, or imprisoned until such fine and cost are paid, not exceeding ninety days; the money arising from such fines to be paid to the use of common schools of the district where such offense shall be committed. (*Id.* § 5.)

EQUAL RIGHTS OF CITIZENS.*

***§ 203. Right to equal privileges.**

That all persons within the jurisdiction of the state of Minnesota shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters and places of public amusements, restaurants, and barber-shops, subject only to the conditions and limitations established by law, and applicable alike to

*"An act to protect all citizens in their civil and legal rights." Approved March 7, 1885. The preamble reads as follows: "Whereas, it is essential to just government that we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political, and it being the appropriate object of legislation to enact great fundamental principles of law: Therefore be it enacted," etc.

all citizens of every race and color, regardless of any previous condition of servitude. (1885, c. 224, § 1.)

***§ 204. Same—Denial—Penalty.**

That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities, or privileges in said section enumerated, or by aiding or inciting such denial, shall for every such offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars, or shall be imprisoned not less than thirty days nor more than one year. (*Id.* § 2.)

STATE CENSUS.*

***§ 205. Enumeration of inhabitants.**

The assessors of the several towns in this state, under the direction of the county auditors of their respective counties, are hereby authorized and required to take an enumeration of the inhabitants in their respective towns, omitting in such enumeration Indians not entitled to the right of suffrage under the constitution and laws of the state, and in case there shall be no town or shall be no assessor in any district composing the whole or a part of any county, then, and in every such case, the county auditor of the county to which any such district may be attached for judiciary purposes shall appoint one or more assistants with power to perform the service required of town assessors by this act, and within the limits of any incorporated city or village the said service shall be performed by the assessor of the corporation. (1885, c. 143, § 1.)

***§ 206. Forms for returns.**

The secretary of state shall prepare appropriate forms distinguishing therein persons of each sex and their respective ages, deaf and dumb, blind, insane, persons of color, nativity of persons, persons of foreign parentage, number of families, number of churches, value of church property, and property held by church associations exempt from taxation, and shall cause a sufficient number of copies thereof to be printed and transmitted to the several county auditors on or before the fifteenth day of April next, and immediately thereafter each of said auditors shall forward the requisite number of such forms to the town assessors and assistants appointed by him within his county to enable them to take said census in a uniform manner. (*Id.* § 2.)

***§ 207. Oath of enumerator.**

The town assessors and assistants shall severally take and subscribe an oath before some person authorized to administer oaths previous to entering upon the discharge of the duties imposed by this act, that they will well and truly cause to be made a just and perfect enumeration of all persons within their city, town, or division, as the case may be, and make a true return thereof in pursuance of the provisions of this act, according to the best of their ability, which oath shall be returned with the census taken by each person respectively to the county auditor of the county on or before the first day of August next. (*Id.* § 3.)

***§ 208. Mode of enumeration.**

The said enumeration shall be made by an actual inquiry by the person taking such census at every dwelling or by personal inquiry of the head of every

* * * "An act for the taking of the census, and for the enumeration of the inhabitants of this state." Approved March 5, 1885.

family in their several cities, towns, or districts, and shall commence on the first day of May next, and shall be completed and closed in two months thereafter, and said enumeration shall include only those whose place of residence shall be in said cities, towns, or districts on the first day of May aforesaid, and the several assessors and assistants shall deliver to the county auditor a true and accurate enumeration of all persons within their respective cities, towns, and districts, which enumeration shall be set forth in schedule according to the form prescribed by the secretary of state, designating the city, town, or district, and shall embrace the several families by the name of the head thereof, and the aggregate population therein. (1885, c. 143, § 4.)

***§ 209. Returns—Copies—Filing.**

The several county auditors shall on the first day of August, or sooner, if all the returns shall be received by him from the assessors and assistants, prepare the duplicate copies of the enumeration of the inhabitants of their respective counties, and transmit said copies to the secretary of state, and deliver the returns as received from the assessors and assistants to the clerk of the district court of the county, and the said clerk shall preserve the same on file in his office. (*Id.* § 5.)

***§ 210. Compensation.**

The persons appointed to take said census shall be allowed compensation for the services to be performed in taking the same as follows: Assessors of incorporated villages and cities shall be paid at the rate of one dollar and seventy-five cents for every one hundred persons enumerated by them, respectively. Town assessors [and assistants] appointed by the county auditors shall be paid at the rate of two dollars and fifty cents for every one hundred enumerated by them, respectively, and the compensation for taking the enumeration in unorganized counties shall be five cents for each name so taken: *provided*, that each county auditor shall be allowed for making his returns ten dollars in case the schedules returned by him shall contain one thousand names or less, and five dollars for every one thousand the schedules returned shall contain exceeding that number. The accounts for taking the census shall be certified in duplicate by the county auditors, respectively, on blanks to be furnished by the state auditor, and such accounts shall be payable to the respective county treasurers, and shall be indorsed by the person taking the census, and to whom compensation is to be paid, as follows:

“I authorize the payment of the amount due me on the within voucher to the treasurer of _____ county. _____, assessor of _____.”

And said county treasurer shall receipt for the total amount found to be due persons in their respective counties, and shall distribute the same to the parties entitled thereto. Such accounts shall be in duplicate, and when adjusted by the state auditor a warrant shall be sent to the treasurer of the proper county with the duplicate of the bill as allowed and adjusted, and shall be paid out of the state treasury: *provided*, that the provisions of this section shall not be subject to any of the provisions of section one hundred and forty-two, chapter eight, nor section eighty-six, chapter ten, of the General Statutes of A. D. one thousand eight hundred and seventy-eight. (*Id.* § 6.)

***§ 211. Refusal of assessor to act.**

In case any of the assessors should refuse to perform the duties required by this act, then it shall be the duty of the auditors to appoint assistants for the performance of such duties as in case of unorganized towns. (*Id.* § 7.)

***§ 212. Secretary of state—Duties.**

It shall be the duty of the secretary of state, after receiving the returns from the auditors, to digest and compile the contents of such returns, showing the number of inhabitants belonging to the respective classes in the sev-

eral counties and in the state, and to make his printed report to the legislature at the commencement of its next regular session, and the secretary of state shall receive five hundred dollars as an additional compensation for the performance of his duties under this act. The secretary is authorized to employ the necessary assistants, whose compensations shall not exceed three dollars per day, to be paid on the warrant of the state auditor. (*Id.* § 8.)

***§ 213. Neglect of duty—Penalty.**

Every county auditor, town assessor, or assistant appointed, and who shall have accepted said appointment, who shall neglect or refuse to perform the duties required by them in taking or returning the census as herein directed, shall forfeit and pay the sum of two hundred and fifty dollars, to be recovered in the manner provided by law for the collections of fines and forfeitures. (*Id.* § 9.)

***§ 214. Appropriation.**

The sum of thirty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury, not otherwise appropriated, for the purpose of carrying into effect this act. (*Id.* § 10.)

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