

THE
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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[CHAPTER 124.]

[WHEAT AND OTHER GRAIN.]

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[TITLE 1.]

[FRAUD IN SALE OF GRAIN—TOLL OF CUSTOM MILL.]

§ 7639. Fraud in sale of grain, seed, or cereals—Penalty.

That whoever, either for his own benefit or as agent of any corporation, company, association or person, obtains from any other person anything of value, or procures the signature of any such person, as maker, endorser, guarantor or surety thereon, to any bond, bill, receipt, promissory note, draft, check, or any other evidence of indebtedness, as the whole or part consideration of any bond, contract or promise given the vendee of any grain, seed or cereals, binding the vendor or any other person, corporation, company, association, or the agent thereof, to sell for such vendee any grain, seed, or cereals, at a fictitious price, or at a price equal to or more than four times the market price of such grain, seed or cereals, and who ever sells, barter or disposes of, or offers to sell, barter or dispose of, either for his own benefit or as the agent of any corporation, company, association or person, any bond, bill, receipt, promissory note, draft, check, or other evidence of indebtedness, knowing the same to have been obtained as the whole or part consideration for any bond, contract or promise given the vendee of any grain, seed or cereals, binding the vendor or any other person, corporation, company, association, or the agent thereof, to sell for such vendee any grain, seed or cereals, at a fictitious price, or at a price equal to or more than four times the market price of such grain, seed or cereals, shall, on conviction thereof, be imprisoned in the penitentiary not more than three years, or be fined in the sum of not more than five hundred dollars, nor less than one hundred dollars, or both, at the discretion of the court.

(1889, c. 11, § 1.)

See § 6747.

§ 7640. Fumigating grain, etc., to change color.

No person shall subject, or procure to be subjected, any barley or other grain, to fumigation by sulphur or other material, or to any other chemical process affecting the color of such barley or grain.

(1879, c. 73, § 1;² G. S. 1878, v. 2, c. 101, § 3c.)**§ 7641. Same—Sale prohibited.**

No person shall sell or offer for sale any barley or other grain which shall have been subjected to fumigation or other process mentioned in the last section, knowing the same to have been so subjected.

(1879, c. 73, § 2; G. S. 1878, v. 2, c. 101, § 3d.)

¹An act to punish and prevent fraud in the sale of grain, seed and other cereals. Approved April 24, 1889.

²An act to prevent fraud by coloring grain. Approved March 6, 1879.

§ 7642. Same—Penalty.

Any person violating the provisions of this act shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars, or imprisonment not exceeding one year in the state prison, or both such fine and imprisonment, and shall be liable to treble the damages sustained by any person injured by such violation.

(1879, c. 73, § 3; G. S. 1878, v. 2, c. 101, § 3e.)

§ 7643. Maximum toll of custom mill for grinding and bolting.

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; G. S. 1878, v. 2, c. 124, § 2047.)

§ 7644. 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.

(1885, c. 212, § 2; G. S. 1878, v. 2, c. 124, § 2048.)

[TITLE 2.]

[STORAGE AND TRANSPORTATION OF GRAIN.]

(1) MISCELLANEOUS PROVISIONS.

§ 7645. Grain delivered for storage deemed a bailment.

That whenever any grain shall be delivered for storage to any person, association or corporation, such delivery shall in all things be deemed and treated as a bailment, and not as a sale, of the property so delivered, notwithstanding such grain may be mingled by such bailee with the grain of other persons, and notwithstanding such grain may be shipped or removed from the warehouse, elevator, or other place where the same was stored. And in no case shall the grain so stored, and which such bailee may hereafter be required to keep on hand, be liable to seizure upon any process of any court in an action against such bailee.

(1876, c. 86, § 1; G. S. 1878, c. 124, § 13.)

Where a warehouseman pledges his own property in store in his own warehouse by issuing to the pledgee a warehouse receipt therefor, the pledgee is a "depositor," within the meaning of this act. (Modifying certain dicta in *Fishback v. Van Dusen*, 33 Minn. 112, 23 N. W. Rep. 244.) *National Exchange Bank v. Wilder*, 34 Minn. 149, 24 N. W. Rep. 699. Followed in *Eggers v. National Bank of Commerce*, 40 Minn. 182, 41 N. W. Rep. 971.

The deposit is a bailment, and the receipt holder is an owner in common of the mass, though the grain deposited by him has been removed and other grain substituted. *Hall v. Pillsbury*, 43 Minn. 33, 44 N. W. Rep. 673.

The warehouseman may also be tenant in common. His interest is limited to the excess above what is necessary to meet his outstanding receipts. If he sell as his own grain beyond such excess without consent of the depositors, the latter may follow the grain into the hands of a purchaser, and recover of him for a conversion. *Hall v. Pillsbury*, 43 Minn. 33, 44 N. W. Rep. 673.

³An 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.

⁴An act to regulate the storage of grain. Approved March 3, 1876.

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See *Leuthold v. Fairchild*, 35 Minn. 99, 27 N. W. Rep. 503, and 23 N. W. Rep. 218; *Greenleaf v. Dows*, 8 Fed. Rep. 550; *Tarbell v. Farmers' Mutual Elevator Co.*, 44 Minn. 471, 473, 47 N. W. Rep. 152.

§ 7646. Receipt—Contents—Penalty for giving false receipt.

Whenever any grain shall be deposited in any warehouse, elevator, or other depository, for storage, the bailee thereof shall issue and deliver to the person so storing the same, a receipt or other written instrument, which shall, in clear terms, state the amount, kind and grade of the grain stored, the terms of storage, and if advances are made, the words "advance made;" which receipt shall be prima facie evidence that the holder thereof has in store with the party issuing such receipt, the amount of grain of the kind and grade mentioned in such receipt; and any warehouseman, proprietor of an elevator, or bailee, who shall issue any receipt or other written instrument for any grain received for storage, which shall be false in any of its statements, shall be guilty of a misdemeanor, and shall upon conviction, be punished by fine not exceeding three hundred dollars, or imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment.

(1876, c. 86, § 2; G. S. 1878, c. 124, § 14.)

A holder of a wheat receipt, given by a warehouseman who has become insolvent, is a "creditor," within the meaning of the insolvent law. *Daniels v. Palmer*, 41 Minn. 116, 42 N. W. Rep. 855.

§ 7647. Full quantity and grade to be redelivered.

It shall be the duty of every person, association or corporation receiving any grain for storage, upon the demand of the bailee, or his assigns or representatives, and tender of all charges for storage and money advanced by the bailee, and upon the faith and credit of such bailment, and offer to surrender and receipt or other written instrument evidencing the receipt of such grain for storage, to deliver to the person entitled thereto a quantity of grain equal in amount and of the kind and grade delivered to such bailee. Every person and every member of any association or corporation who shall, after demand, tender and offer, as provided in section three of this act, wilfully neglect or refuse to deliver to the person making such demand, the full amount of grain of the kind and grade which such person is entitled to demand of such bailee, shall be deemed guilty of larceny, and shall be punished by fine or imprisonment, or both, as is prescribed by law for the punishment of larceny.

(1876, c. 86, § 3; G. S. 1878, c. 124, § 15.)

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.*, 37 Minn. 464, 35 N. W. Rep. 268.

The remedies provided by §§ 7647, 7648, for depositors of grain, are not exclusive, but are in addition to previous common-law and statutory remedies in case of conversion by a bailee. *Daniels v. Palmer*, 41 Minn. 116, 42 N. W. Rep. 855.

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

§ 7648. Same—Action for failure to redeliver.

Whenever, upon any demand, tender or offer, as provided in section three of this act, any such bailee shall neglect or refuse to deliver any grain received for storage, or a quantity of grain equal in amount and of the same kind and grade as received, any such bailor, or his assigns or representative, may commence in any court having jurisdiction thereof, an action against such bailee, to recover possession of a quantity of grain equal in amount and of the same kind and grade as that delivered to such bailee, and in every action it shall be the duty of the sheriff or other proper officer to take into his possession, from the warehouse of such bailee, or other place where he may have the same, a quantity of grain equal in amount and of the same grade as that specified in the affidavit made or writ issued in such action. Such action shall be commenced and prosecuted, if in district court, in the manner provided in actions for the claim and delivery of personal

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property; and if in justice courts, in the manner provided in actions for replevin.

(1876, c. 86, § 4; G. S. 1878, c. 124, § 16.)

See *State v. Loomis*, 27 Minn. 521, 8 N. W. Rep. 758; *Greenleaf v. Dows*, 8 Fed. Rep. 550; *Daniels v. Palmer*, cited in note to § 7647; *Hall v. Pillsbury*, 43 Minn. 33, 36, 44 N. W. Rep. 673.

§ 7649. Warehouse receipts, etc., negotiable—Exception.

Warehouse receipts, given for any goods, wares and merchandise, grain, flour, produce or other commodity, stored or deposited with any warehouseman, or other person or corporation in this state, or bills of lading, or receipt for the same, when in transit by cars or vessels to any such warehouseman, or other person, shall be negotiable, and may be transferred by endorsement and delivery of such receipt or bill of lading; and any person to whom the said receipt, or bill of lading, may be transferred, shall be deemed and taken to be the owner of the goods, wares or merchandise therein specified, so as to give security and validity to any lien created on the same, subject to the payment of freight and charges thereon: provided, that all warehouse receipts, or bills of lading, which shall have the words "not negotiable" plainly written or stamped on the face thereof, shall be exempt from the provisions of this act.

(1876, c. 86, § 5; G. S. 1878, c. 124, § 17.)

This section does not put bills of lading on the footing of bills of exchange, but merely makes a transfer and delivery of them, in the mode therein prescribed, equivalent, for certain purposes, to a transfer and delivery of the property. *National Bank of Commerce v. Chicago, B. & N. R. Co.*, 44 Minn. 224, 46 N. W. Rep. 342, 560.

§ 7650. No delivery, etc., without authority of owner.

No person receiving or holding grain in store, shall sell or otherwise dispose of, or deliver out of the storehouse or warehouse where such grain is held or stored, the same, or any part thereof, without the express authority of the owner of such grain and the return of the receipt given for the same, except as herein provided.

(1876, c. 86, § 6; G. S. 1878, c. 124, § 18.)

See *National Exchange Bank v. Wilder*, 34 Minn. 149, 157, 24 N. W. Rep. 699; *Greenleaf v. Dows*, 8 Fed. Rep. 550; *Hall v. Pillsbury*, 43 Minn. 33, 37, 44 N. W. Rep. 673.

§ 7651. Different grades not to be mixed, etc.

It shall be unlawful for any warehouseman, or owner or keeper of any elevator, or any agent of either, to mix together any grain of different grades, so received in store, or to select different qualities thereof of the same grade for the purpose of storing or delivering the same, or attempt to deliver grain of one grade for another, or in any way to tamper with any grain of other persons while in his possession or custody, with a view to securing any profit to himself, or any one, without the consent of the owner.

(1876, c. 86, § 7; G. S. 1878, c. 124, § 19.)

§ 7652. Penalties.

Any warehouseman or other person violating any of the provisions of section six or section seven of this act, shall be deemed guilty of a felony, and upon conviction shall be fined in a sum of not over one thousand dollars, or imprisonment in the state prison of this state not exceeding five years, or both.

(1876, c. 86, § 8; G. S. 1878, c. 124, § 20.)

§ 7653. Common carriers to give grain receipts—To deliver quantity receipted for.

That all common carriers doing business within this state engaged in the transportation of grain, shall, when requested, give a receipt for the number of bushels or pounds of grain delivered to them for transportation, and shall deliver the number of bushels or pounds so receipted for to the consignee thereof, or to the line or lines or common carrier with which they may connect, or to which they may deliver the same to be forwarded to the point

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of destination, less the usual loss from transportation, not exceeding forty-five pounds to each car.

(1875, c. 88, § 1;⁵ G. S. 1878, c. 124, § 10.)

§ 7654. Same—Penalty.

That any such common carrier, or the agent of such common carrier, who shall refuse to give a receipt as herein provided for, shall pay a fine of not more than fifty dollars, nor less than ten dollars, for each and every violation of this act, to be recovered before any justice of the peace; and any such common carrier refusing or neglecting to deliver the amount of grain so receipted for to the consignee thereof, or to the common carrier to which such grain may be delivered to be carried to the point of destination, shall, in addition to the civil liability of such common carrier for all loss or shrinkage, except as above provided, be subject to a penalty of not less than fifty dollars, nor more than one hundred dollars, for each and every such refusal or neglect, to be recovered before any justice of the peace.

(1875, c. 88, § 2; G. S. 1878, c. 124, § 11.)

§ 7655. Prosecutions—How conducted.

All prosecutions under the provisions of this act shall be carried on in the name of the state, and be prosecuted under the direction of the attorney general.

(1875, c. 88, § 3; G. S. 1878, c. 124, § 12.)

§ 7656. Maximum rate for handling grain in elevators, etc.—Who not to be inspectors.

It shall not be lawful for any railroad company or person, association or corporation engaged in the business of keeping an elevator or warehouse situated upon the line of any railroad in this state, for receiving and handling grain for other persons, to charge any greater sum than two cents per bushel for receiving, elevating, handling and delivering such grain; nor shall it be lawful for any such railroad company, person, association or corporation to employ or allow any person to act as inspector of the grain received into their elevator or warehouse who is in any manner, directly or indirectly, interested in the purchase or shipping thereof.

(1874, c. 31, § 1;⁶ G. S. 1878, c. 124, § 7.)

But see §§ 7671, 7676, as to charges in public warehouses at Duluth, Minneapolis, and St. Paul.

§ 7657. When railroad company refuses to handle grain at legal rate, private persons, etc., may erect elevators, etc.

Whenever any railroad company shall refuse to receive, store, handle and deliver grain, at any station on the road, at the rates provided in section one of this act, then in such case, said railroad company shall, upon demand, allow any person, association or corporation, to erect and maintain, at such station, adjoining the railroad track, or side-track, warehouses to receive, store and ship grain; or, at the option of the railroad company, such company shall build and maintain a side-track to and for the use and accommodation of any warehouse near the station. And no person keeping a warehouse or elevator shall in any case be compelled to pay the railroad company, or any person keeping any other warehouse or elevator, any sum or compensation for or on account of the privilege of doing business.

(1874, c. 31, § 2; G. S. 1878, c. 124, § 8.)

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 ship-

⁵ An act for the protection of exporters of grain from this state. Approved March 4, 1875.

⁶ An act for the regulation of grain elevators and warehouses. Approved March 9, 1874.

ment, 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.

§ 7658. Penalty for violating this act.

Any railroad company, or any keeper of any warehouse or elevator, or any person, who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than one hundred nor more than five hundred dollars, in the discretion of the court.

(1874, c. 31, § 3; G. S. 1878, c. 124, § 9.)

(2) INSPECTION AND HANDLING AT TERMINAL POINTS.

§ 7659. Certain 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; 7 G. S. 1878, v. 2, c. 124, § 201.)

*See § 7704.

See *Arthur v. St. Paul & D. R. Co.*, 38 Minn. 95, 35 N. W. Rep. 718.

§ 7660. 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.

(1885, c. 144, § 2; G. S. 1878, v. 2, c. 124, § 202.)

§ 7661. 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

* Entitled "An act to regulate warehouses, inspection, weighing, and handling grain." Approved March 5, 1885. 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.

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warehouse in any one county in the state, no more than one bond need be given.

(1885, c. 144, § 3; G. S. 1878, v. 2, c. 124, § 20^a.)

§ 7662. 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 commissioner's 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.

(1885, c. 144, § 4; G. S. 1878, v. 2, c. 124, § 20^a.)

§ 7663. 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.

(1885, c. 144, § 5; G. S. 1878, v. 2, c. 124, § 20^a.)

§ 7664. 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

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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.

(1885, c. 144, § 6; G. S. 1878, v. 2, c. 124, § 20^a.)

*See, also, § 6770.

See *Arthur v. St. Paul & D. R. Co.*, 38 Minn. 95, 35 N. W. Rep. 718.

§ 7665. 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; G. S. 1878, v. 2, c. 124, § 20^r.)

§ 7666. 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.

(1885, c. 144, § 8; G. S. 1878, v. 2, c. 124, § 20^s.)

§ 7667. 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

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property is delivered in the order demanded, and as rapidly as due diligence, care, and prudence will justify.

(1885, c. 144, § 9; G. S. 1878, v. 2, c. 124, § 209.)

§ 7668. 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.

(1885, c. 144, § 10; G. S. 1878, v. 2, c. 124, § 2010.)

§ 7669. 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.

(1885, c. 144, § 11; G. S. 1878, v. 2, c. 124, § 2011.)

§ 7670. 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.

(1885, c. 144, § 12; G. S. 1878, v. 2, c. 124, § 2012.)

§ 7671. 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

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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.

(1885, c. 144, § 13; G. S. 1878, v. 2, c. 124, § 2013.)

§ 7672. 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

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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; G. S. 1878, v. 2, c. 124, § 2014.)

§ 7673. 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.

(1885, c. 144, § 15; G. S. 1878, v. 2, c. 124, § 2015.)

§ 7674. 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.

(1885, c. 144, § 16; G. S. 1878, v. 2, c. 124, § 2016.)

§ 7675. Same—Authority—Effect of certificates.

Said state weighmaster and assistants shall, at the places of St. Paul, Minneapolis, Duluth and St. Cloud, supervise and have exclusive control of the weighing of grain and other property which may be subject to inspection, except when otherwise ordered or directed by the party shipping the same, and the inspection of scales; and the action and certificates of such weighmaster and his assistants in the discharge of their aforesaid duties shall be conclusive upon all parties, either in interest or otherwise, as to the matters contained in said certificates.

(1893, c. 130, § 1.)

§ 7676. 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.

(1885, c. 144, § 18; G. S. 1878, v. 2, c. 124, § 2018.)

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§ 7677. 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.

(1885, c. 144, § 19; G. S. 1878, v. 2, c. 124, § 20¹⁹.)

§ 7678. 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.

(1885, c. 144, § 20; G. S. 1878, v. 2, c. 124, § 20²⁰.)

§ 7679. 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; G. S. 1878, v. 2, c. 124, § 20²¹.)

§ 7680. 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.

(1885, c. 144, § 22; G. S. 1878, v. 2, c. 124, § 20²².)

§ 7681. 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."

(1885, c. 144, § 23; G. S. 1878, v. 2, c. 124, § 20²³.)

§ 7682. 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.

(1885, c. 144, § 24; G. S. 1878, v. 2, c. 124, § 20²⁴.)

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§ 7683. 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.

(1885, c. 144, § 25; G. S. 1878, v. 2, c. 124, § 20²⁵.)

§ 7684. 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.

(1885, c. 144, § 26; G. S. 1878, v. 2, c. 124, § 20²⁶.)

§ 7685. 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.

(1885, c. 144, § 27; G. S. 1878, v. 2, c. 124, § 20²⁷.)

§ 7686. 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.

(1885, c. 144, § 28; G. S. 1878, v. 2, c. 144, § 20²⁸.)

§ 7687. 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.

(1885, c. 144, § 29; G. S. 1878, v. 2, c. 124, § 20²⁹.)

§ 7688. Personating 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.

(1885, c. 144, § 30; G. S. 1878, v. 2, c. 124, § 20³⁰.)

§ 7689. 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 consid-

eration, 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.

(1885, c. 144, § 31; G. S. 1878, v. 2, c. 124, § 20³¹.)

§ 7690. 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.

(1885, c. 144, § 32; G. S. 1878, v. 2, c. 124, § 20³².)

§ 7691. 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.

(1885, c. 144, § 33; G. S. 1878, v. 2, c. 124, § 20³³.)

§ 7692. 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; G. S. 1878, v. 2, c. 124, § 20³⁴.)

§ 7693. 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.

(1885, c. 144, § 35; G. S. 1878, v. 2, c. 124, § 20³⁵.)

§ 7694. 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 combina-

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tion 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.

(1885, c. 144, § 36; G. S. 1878, v. 2, c. 124, § 20³⁶.)

§ 7695. 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.

(1885, c. 144, § 37; G. S. 1878, v. 2, c. 124, § 20³⁷.)

§ 7696. 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.

(1885, c. 144, § 38; G. S. 1878, v. 2, c. 124, § 20³⁸.)

§ 7697. 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.

(1885, c. 144, § 39; G. S. 1878, v. 2, c. 124, § 20³⁹.)

§ 7698. 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.

(1885, c. 144, § 40; G. S. 1878, v. 2, c. 124, § 20⁴⁰.)

§ 7699. 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.

(1885, c. 144, § 41; G. S. 1878, v. 2, c. 124, § 20⁴¹.)

§ 7700. 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.

(1885, c. 144, § 42; G. S. 1878, v. 2, c. 124, § 20⁴².)

§ 7701. 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

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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.

(1885, c. 144, § 43; G. S. 1878, v. 2, c. 123, § 20⁴³.)

§ 7702. 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.

(1885, c. 144, § 44; G. S. 1878, v. 2, c. 124, § 20⁴⁴.)

§ 7703. 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.

(1885, c. 144, § 43; G. S. 1878, v. 2, c. 124, § 20⁴⁵.)

§ 7704. Act to apply to St. Cloud.

That whenever the cities of St. Paul, Minneapolis and Duluth are named in this chapter, the name of St. Cloud shall be included, and the provisions of said chapter shall be construed to extend to said city of St. Cloud to the same extent as to said cities of St. Paul, Minneapolis and Duluth.

(1891, c. 99, § 2.)

§ 7705. Weighmasters—Record of weighing done.

All state weighmasters and assistants provided for by this law and the amendments thereto shall be required to make true weights under the penalties hereinbefore provided, and in addition thereto keep a correct record of all weighing done by them at the places hereinbefore named, in which record shall be entered an accurate account of all grain or other property weighed, or the weighing of which was supervised by them or their assistants, giving the amount of each weight, the number of the car or cars weighed, if any, the initial letter of said car or cars, place where weighed, date of weighing and contents of car.

(1893, c. 130, § 2.)

§ 7706. Same—To furnish certificates.

Said weighmaster and assistants shall give upon demand to any person or persons having weighing done a certificate under his hand and seal, showing the amount of each weight, number of car or cars weighed, if any, the initial of said car or cars, place where weighed, date of weighing and contents of car. And it is hereby provided that said weighmaster's certificate shall be admitted in all actions, either at law or in equity, as prima facie evidence of the facts therein contained, but the effect of such evidence may be rebutted by other competent testimony.

(Id.)

§ 7707. Grain in cars—Duty of inspectors.

It shall be the duty of the chief inspector of grain, and of any deputies or officials serving under him, before opening the doors of any cars containing grain upon their arrival at any of the several places designated by law as terminal points in this state, for the purpose of inspecting the same, to first ascertain the condition of any such car or cars, and determine whether any leakages have occurred while the said car or cars were in transit; also whether or not the end or side doors are properly secured and sealed, making a record of such facts in all cases and recording the same in a proper book to be kept for the purpose. After such examination shall have been duly made and recorded, and the inspection of such grain has been made, it shall be the duty of the said officials of the state grain inspection department, above mentioned, to securely close and reseal such doors as have been opened by them, using a special seal of the said state grain inspection department for the purpose. A record of all original seals broken by said officials and the time when broken, also a record of all state seals substituted therefor and the time when such state seals were substituted, together with

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a full description of said seals with their numbers, shall be made by the said officials.

(1893, c. 29, § 1.8)

§ 7708. Same—Duty of railroads—Watchmen.

It shall be the duty of all railroad companies operating any lines of railroad at the terminal points of this state to furnish ample and sufficient police protection at each and all of their several terminal yards and on their terminal tracks to securely protect all cars containing grain, while the same is in their possession, pending transfer and delivery of same, and it shall be the duty of such railroad companies to prohibit and restrain all unauthorized persons, whether under the guise of samplers, sweepers, or under any other pretext whatever, from entering or loitering in or about their respective railroad yards or tracks and from entering any cars of grain under their control, or removing grain therefrom, and shall employ and detail such number of watchmen as may be necessary for the purpose of carrying out the provisions of the within section.

(Id. § 2.)

§ 7709. Same—Duty of warehousemen, etc.

It shall be the duty of all warehousemen operating and controlling grain elevators and warehouses at any terminal point within this state, and it shall further be the duty of all persons, firms or corporations engaged in the manufacture of flour or other grain products at such terminal points, to furnish ample and sufficient protection to all grain in cars which may be in their possession and to properly care for all cars of grain consigned to their respective elevators, warehouses, mills or manufactories after delivery of same has been made by the railroad companies, and in case of shipment of grain in cars from such elevators, warehouses, mills or manufactories the said persons shall fully protect and care for said cars of grain until delivery of same has been made to the railroad company.

(Id. § 3.)

§ 7710. Same—Penalty for breaking seals.

Any person other than those charged by sections one, two and three of the within act with the care of the property described herein who shall tamper with or break any seals placed upon such cars of grain, shall be deemed guilty of a misdemeanor and shall be punished by a fine not less than ten dollars and not exceeding one hundred dollars, or by imprisonment in the county jail not less than ten days and not exceeding ninety days upon conviction.

(Id. § 4.)

§ 7711. Same—Penalty for violation of act.

If any person or persons mentioned in sections one, two and three of the within act shall neglect or fail to carry out the duties prescribed for their government in said sections, he or they shall be liable to the owner for the full amount of actual loss or damage which said owner may suffer by reason thereof.

(Id. § 5.)

§ 7712. Same—Shipper to terminal points to affix tag.

It shall be the duty of every shipper of grain by railroad to the terminal points within this state to fasten upon the inside of the door of every car so shipped by him a card upon which shall be given the number and initials of such car, the date of shipment and the exact weight of the grain in such car as ascertained and determined by such shipper. In case of failure on the part of any shipper to comply with the provisions of this section, the weight of the grain in such car as ascertained and determined by the state weighmaster at the terminal point shall be taken as prima facie evidence of the amount of grain in such car contained.

(Id. § 6.)

^aAn act to provide for the care and protection of grain in cars at the several places designated by law as terminal points within the state of Minnesota. Approved April 6, 1893.

§ 7713. 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; G. S. 1878, v. 2, c. 124, § 20⁴⁶.)

(3) STORAGE AT COUNTRY WAREHOUSES.

§ 7714. Public country warehouses—License.

All elevators and warehouses in which grain is stored and handled, and which are situate on the right of way of any railroad at any station or siding in this state, other than at terminal points, are hereby declared to be public elevators, and shall be under the supervision and subject to the inspection of the railroad and warehouse commission of the state of Minnesota, and shall, for the purposes of this act, be known and designated as public country elevators or country warehouses; it shall be unlawful to receive, store, ship or handle any grain in any such elevator or warehouse, unless the owner or owners thereof shall have procured a license therefor from the state railroad and warehouse commission, which license shall be issued for the fee of one dollar per year, and only upon written application under oath, specifying the location of such elevator or warehouse, and the name of the person, firm or corporation, and the names of all the members of the firm, or the names of all the officers of the corporation owning and operating such elevator or warehouse. Such license shall confer upon the licensee full authority to operate such warehouse or elevator in accordance with the laws of this state and the rules and regulations prescribed by said commission, and every person, company or corporation receiving such license shall be held to have accepted the provisions of this act and thereby to have agreed to comply with the same. If any such elevator or warehouse is operated in violation or in disregard of the laws of this state, its license shall, upon due proof of this fact, after proper hearing and notice to the licensee, be revoked by the said railroad and warehouse commission.

(1893, c. 28, § 1.9)

§ 7715. Same—Operating without license—Injunction.

No person, firm or corporation shall in any manner operate such public country elevator or country warehouse without having a license as specified in the preceding section, and any attempt to operate such elevator or warehouse without such license shall be deemed a misdemeanor, to be punished as hereinafter provided, and any attempt to operate such elevator or warehouse in violation of law and without having the license herein prescribed, may, upon complaint of the party aggrieved, and upon the complaint of the railroad and warehouse commission, be enjoined and restrained by the district court for the county in which the elevator or warehouse in question is situate, by temporary and permanent injunction, conformably to the procedure in civil actions in the district court.

(Id. § 2.)

§ 7716. Same—Rules and regulations—Posting.

The railroad and warehouse commission shall each year, and as much often as they shall deem proper, make and promulgate all suitable and necessary rules and regulations for the government and control of public country elevators and public country warehouses, and the receipt, storage and shipment of grain therein and therefrom, and the rates of charges therefor, and the rates so fixed shall be deemed prima facie reasonable and proper, and such rules and regulations shall be binding and have the force and effect of law, and

⁹ An act to regulate the receipt, storage and shipment of grain at elevators and warehouses on the right of way of railroads in the state of Minnesota, at stations and sidings other than at terminal points. Approved April 7, 1893.

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a printed copy of such rules and regulations shall, at all times, be posted in a conspicuous place in each of said elevators and warehouses, for the free inspection of the public.

(Id. § 3.)

§ 7717. Same — Warehouse receipts — Certificates of shipment.

The party operating such country elevator or country warehouse shall keep a true and correct account in writing, in proper books, of all grain received, stored and shipped at such elevator or warehouse, stating the weight, grade and dockage for dirt or other cause on each lot of grain received in store for sale, storage or shipment, and shall, upon the request of any person delivering grain for storage or shipment, receive the same without discrimination during reasonable and proper business hours, and shall, upon request, deliver to such person, or his principal, a warehouse receipt or receipts therefor, in favor of such person or his order, dated the day the grain was received, and specifying upon its face the gross and net weight of such grain, the rate of dockage for dirt or other cause, and the grade of such grain, conformable to the grades fixed by the state railroad and warehouse commission and in force at terminal points, and shall also state upon its face that the grain mentioned in such receipt or receipts has been received into store to be stored with grain of the same grade under such inspection, and that, upon the return of the said receipt or receipts, and upon the payment or tender of payment of all lawful charges for receiving, storing, delivering or otherwise handling said grain, which charges may have accrued up to the time of the return of said receipt or receipts, such grain is deliverable to the person named therein, or his order, either at the elevator or warehouse where it was received for storage, or, if the owner so desires, on track at any terminal point, at the election of said owner, where official inspection and weighing under the rules and regulations of the railroad and warehouse commission of the state of Minnesota is in force, such grain to be consigned to said owner, or his order, and subject to such official inspection and weight as may be determined upon its arrival at such terminal point. In case of such shipment at the election of the party delivering said grain, the party receiving such grain shall deliver to the party for whom the shipment is made a certificate in evidence of such shipment, stating upon its face the date and place of such shipment, the name of consignor and consignee, and the place of destination, and shall also specify upon the face of such certificate the grade and gross and net weights of such shipment, in the same manner as provided herein as to warehouse receipts. Provided, however, if the party receiving such grain for storage or shipment shall elect to have the same deliverable at a terminal elevator or warehouse at any of the terminal points as hereinbefore provided, he shall have a prior right and liberty to do so, and in such case the party delivering said grain shall have the right to designate at which of said places said grain shall be deliverable, in quantities not less than a car load, and the party receiving such grain shall have the right to designate the particular elevator or warehouse in the place so named, as the warehouse at which the grain mentioned herein shall be deliverable, and the said party receiving such grain shall in such case issue a written order upon such designated terminal elevator or warehouse in favor of the owner of such grain, or his order, for the delivery of a like quantity and quality of grain as that mentioned in the original warehouse receipt or in quantities not less than a car load, subject to official inspection and weight at such designated terminal point. Such written order or shipment shall be subject to all freight or transportation or other lawful charges which may have accrued upon said grain represented by such written order or shipment (from the date of the issue of said order or of such shipment, and the date of actual delivery within the meaning of this act in case of shipment), or the date when the grain, in case of a written order, is demanded for delivery at the terminal warehouse. All warehouse receipts issued for grain received, and all orders issued in lieu of such receipts as hereinbefore provided, shall be consecutively numbered, and no two receipts or orders bearing the same date shall be issued during the same year from the

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same warehouse, except in case of a lost or destroyed receipt or order, in which case the new receipt or order shall bear the same date and number as the original, and shall be plainly marked on its face "Duplicate." No such receipt or order shall be issued except upon grain which has actually been delivered in said country or terminal elevator or warehouse. The grain specified in such receipt or order shall be made deliverable to the person delivering the grain for storage, or to his order. Such receipt shall not be issued for a greater quantity of grain than was contained in the lot or parcel stated to have been received. Such receipt or order shall not contain language in anywise limiting or modifying the liability of the party issuing the same as imposed by the laws of this state, and any such language, if inserted, shall be null and void. A failure to specify in such warehouse receipt or order the true and correct grade and gross and net weight of any lot of grain so received shall be deemed a misdemeanor on the part of the person issuing such receipt, for which, on conviction, he may be punished as hereinafter provided.

Delivery of grain.

On the return or presentation of such receipt or order by the lawful holder thereof, properly endorsed, at the elevator or warehouse where the grain represented therein is made deliverable, and upon the payment or tender of payment of all lawful charges, as hereinbefore provided, then grain shall be immediately delivered to the holder of such receipt or order, and it shall not be subject to any further charge for storage, after demand for such delivery shall have been made. The grain represented by such receipt or order shall be delivered within twenty-four hours after such demand shall have been made, and cars or vessels or other means of receiving the same from the elevator or warehouse shall have been furnished. If not delivered upon such demand within twenty-four hours after such car, vessel or other means for receiving the same shall have been furnished, the warehouse 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 property is delivered in the order demanded by holders of different receipts or orders and as rapidly as due diligence, care and prudence will justify. Provided, that if a state public elevator or elevators are at any time established by law, the owner of the grain shall have the right when delivering such grain to demand and receive a receipt for such grain, deliverable at such state elevator as he may designate, subject to the provisions of this section as to grade, dockage and charges. (Id. § 4.)

§ 7718. Same—Disagreement as to grade, etc.—Inspection by chief inspector.

In case there is a disagreement between the person in the immediate charge of and receiving the grain at such country elevator or warehouse, and the person delivering the grain to such elevator or warehouse for storage or shipment, at the time of such delivery, as to the proper grade or the proper dockage for dirt or otherwise, on any lot of grain delivered, an average sample of at least three quarts of the grain in dispute may be taken by one or both parties and forwarded in a suitable sack, properly tied and sealed, express charges prepaid, to the chief inspector of grain at St. Paul, which shall be accompanied by the request in writing, of either or both of the parties aforesaid, that the said chief inspector shall examine the same and report what grade or dockage, or both, the said grain is, in his opinion, entitled to and would receive if shipped to the terminal points and subjected to official inspection. It shall be the duty of said chief inspector, as soon as practicable, to examine and inspect such sample of grain and adjudge the proper grade or dockage, or both, to which said sample is, in his judgment, entitled and which grain of like quality and character would receive if shipped to the terminal points and subjected to official inspection. As soon as said chief inspector has examined, inspected and adjudged the grade and dockage, as aforesaid, he shall at once make out in writing and in triplicate a statement of his judgment and finding in respect to the case under consideration, and shall

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transmit by mail to each of the parties to said disagreement a copy of the said statement of his judgment and finding, preserving the original, together with the sample, on file in his office. The judgment and finding of the said chief inspector shall be deemed conclusive as to the grade or dockage, or both, of said sample submitted for his consideration, as herein provided, as well as conclusive evidence of the grade or dockage, or both, that grain of same quality and character would receive if shipped to the terminal points and subjected to official inspection.

(Id. § 5.)

§ 7719. Same—Complaints—Duty of warehouse commission.

Whenever complaint is made, in writing, to the railroad and warehouse commission, by any person aggrieved, that the party operating any country elevator or country warehouse under this act fails to give just and fair weights and grades, or is guilty of making unreasonable dockage for dirt or other cause, or fails in any manner to operate such elevator or warehouse fairly, justly and properly, or is guilty of any discrimination, then it shall be the duty of the railroad and warehouse commission to inquire into and investigate said complaint and the charge therein contained, and to this end and for this purpose the commission shall have full authority to inspect and examine all the books, records and papers pertaining to the business of such elevator or warehouse, and all the scales, machinery and fixtures and appliances used therein. In case the said commission find the complaint and charge therein contained, or any part thereof, true, they shall adjudge the same in writing and shall at once serve a copy of such decision, with a notice to desist and abstain from the error and malpractice found, upon the party offending and against whom the complaint was made, and to afford prompt redress to the party injured, and if such party does not desist and abstain and does not give the proper redress and relief to the party injured, it shall be the duty of the said commission to institute and carry on, in the name of the complainant, such actions, civil and criminal, as may be necessary and appropriate to redress the wrongs complained of and to prevent their recurrence in the future.

(Id. § 6.)

§ 7720. Same—Terminal receipts—Delivery of grain—Default of warehouseman.

On the presentation of the order or orders referred to in section four of this act, by the lawful owner thereof, properly indorsed, at the terminal elevator or warehouse where the grain represented therein is made deliverable, the owner or operator of such terminal elevator shall accept the same, if the party issuing the same shall have in store in such terminal elevator grain in quantity and quality as represented in such order or orders, and deliverable therein, and issue in exchange for such order or orders to the lawful holder of the same, or his order, a terminal receipt bearing date when issued, and which shall state upon its face the net quantity and grade of the grain, and that the grain mentioned therein has been received and held in store, and shall also state separately the transportation and other charges against said grain existing at the date the receipt is issued, and that upon the return of such receipt properly indorsed by the person to whose order it was issued and the payment of all proper and lawful charges against said grain, the same shall be delivered to the lawful owner of such receipt; provided, that the charges of the terminal warehouse shall be computed for a period beginning at the date of the maturity of the order issued by the local warehouseman for such grain, and the same may include interest at the lawful rate upon moneys advanced for payment of transportation charges. Such terminal receipts shall be consecutively numbered. No two receipts bearing the same number shall be issued by 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 upon its face "Duplicate." If such local orders when presented at such terminal elevator are not accepted by the owner or operator of such elevator,

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the party issuing such order or orders shall be liable for such default to the owner of such order or orders for all damages that shall arise from such default, not less, however, than the sum of one cent per bushel for all the grain represented in such order or orders, and in addition thereto one cent per bushel for each and every day of such neglect and refusal. Upon the delivery of the grain under such receipts, the same shall be marked "Canceled." The grain represented by such receipts may be delivered in part. Receipts so issued may be surrendered and new ones issued. Such receipts may be consolidated as provided in an act entitled "An act to regulate warehouses, inspection, weighing and handling of grain," approved March 5, 1885, and upon presentation of such terminal receipt to such terminal elevator, and upon the payment or legal tender of payment of all lawful charges as hereinbefore provided, the grain represented therein shall be immediately delivered to the holder of such receipt, and it shall not be subject to any further charge for storage after demand for delivery shall have been made. The grain represented by such terminal receipt shall be delivered within twenty-four hours after such demand shall have been made and cars or vessels to receive the same from such terminal elevator or warehouse shall have been furnished. If not delivered upon such demand within twenty-four hours after such cars or vessels for receiving the same shall have been furnished, the owner or operator of the elevator in default shall be liable to the owner of such receipt for all damages sustained by reason of such default, not less than the sum of one cent per bushel, and in addition thereto one cent per bushel for each and every day of such neglect and refusal to deliver. Provided, no warehouseman shall be held to be in default in delivering if grain is delivered in the order demanded by holders of different receipts as rapidly as reasonable care, diligence and prudence will justify.

(Id. § 7.)

§ 7721. Same—Annual report to commissioners.

Any person, firm or corporation operating any country warehouse or country elevator under this act shall, on or before the first day of September in every year, and oftener if necessary, render and furnish in writing and under oath to the railroad and warehouse commission a report and itemized statement of all grain received and stored in or delivered or shipped from such elevator or warehouse during the year then last passed. Such statement shall specify the kind, grade, gross and net weight of and dockage upon all grain received or stored and all grain delivered or shipped, and shall particularly specify and account for all so-called overage that may have accrued during the year. Such statement and report shall be made upon blanks and forms furnished and prescribed by the railroad and warehouse commission.

(Id. § 8.)

See § 283.

§ 7722. Same—Pooling of business unlawful.

It shall be unlawful for any person, firm or corporation who shall operate any country grain elevator or country grain warehouse, under this act, to enter into any contract, agreement, understanding or combination with any other person, firm or corporation, who shall operate any other country grain elevator or country grain warehouse, under this act, for pooling of the earnings or business of other different and competing grain elevators or warehouses, so as to divide between them the aggregate or net proceeds of the earnings or business of such grain elevators or warehouses, or any portion thereof; and in case of any agreement for the pooling of the earnings or business aforesaid, each day of its continuance shall be deemed a separate offense.

(1893, c. 28, § 9.)

§ 7723. Same—Penalty for violation of act.

Any person, firm or corporation who is guilty of any of the misdemeanors specified in this act, or who is guilty of violating any of the provisions of this act, shall, on conviction, be punished by a fine of not less than fifty dollars and not more than five hundred dollars, and in case a natural person is so convicted, he may be imprisoned until the fine is paid or until discharged by due course of law; and in case a corporation is so convicted, the fine may be

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collected by execution, as judgments are collected in civil actions, or the property of the corporation may be sequestered and charged with the same, in appropriate legal proceedings.

(Id. § 10.)

(4) WAREHOUSES, ETC., NEAR RIGHT OF WAY OF RAILROADS¹⁰—SIDE TRACKS, ETC.

§ 7724. Warehouse on railroad right of way—Application.

Any person, firm or corporation desirous of erecting and operating at or contiguous to any railway station or siding a warehouse or elevator for the purchase, sale, shipment or storage of grain for the public for hire may make application in writing containing a description of that portion of the right of way of said railroad on which said person, firm or corporation desires to erect a warehouse or elevator, and the size and capacity of the warehouse or elevator proposed to be erected and the time for which it is desired to maintain said warehouse or elevator to the person, firm or corporation owning, leasing or operating the railway at such station or siding for the right, privilege and easement of erecting and maintaining for the time stated in said application and for reasonable compensation such warehouse or elevator as aforesaid upon the right of way appertaining to such railway at such siding or station, and within and between the outside switches of the yard of such railway station or siding, and upon paying or securing in the manner hereinafter prescribed reasonable compensation for the right, privilege and easement aforesaid shall absolutely and unconditionally be entitled to the same.

(1893, c. 64, § 1.11)

§ 7725. Same—Compensation—Notice to applicant of acceptance or rejection.

The application provided in the first section of this act shall also state the amount the applicant deems a reasonable compensation for the right, privilege and easement he desires to acquire, and said applicant shall tender and pay to such person, firm or corporation from whom such easement is sought the sum stated in such application, and in case the amount so named and tendered is not accepted and the parties cannot agree on the amount to be paid for such right, privilege and easement, the same shall be ascertained, assessed and determined by proceedings in the district court of the county in which the station or siding at which the right, privilege and easement sought is situated, which court is hereby given full jurisdiction in the premises, and shall at all times be deemed open and in session for the purposes of this act. It shall be the duty of any person, firm or corporation to whom application is made for the right to erect and maintain an elevator or warehouse under the provisions of this act to within ten days after the receipt of said application notify said applicant in writing of the acceptance or rejection of the amount stated in said application to be reasonable compensation for the right, privilege and easement sought to be acquired, and in case said person, firm or corporation fails to notify the applicant within said ten days, said person, firm or corporation shall be deemed to have accepted said amount, and upon payment or tender thereof said applicant shall be deemed to have acquired the right, privilege and easement applied for.

(Id. § 2.)

§ 7726. Same—Procedure in district court.

Proceedings in the district court shall be instituted and carried on as follows: The party seeking the right, privilege and easement aforesaid shall

¹⁰An act to provide for purchase of a site and for erection of a state elevator at Duluth. Laws 1893, c. 30. Held unconstitutional in *Rippe v. Becker* (Minn.) 57 N. W. Rep. 381.

¹¹An act providing for the erection of public grain warehouses and grain elevators, on or near the right of way of railways, and providing for condemnation proceedings in connection therewith. Approved April 8, 1893.

present to and file with the district court a petition in writing and under oath specifying and describing the right, privilege and easement sought and the time for which the same is sought and the fact that the parties to the proceedings are unable to agree upon the amount of compensation therefor. A copy of the application for such privilege shall be attached to said petition and thereupon it shall at once be the duty of the court, by its order in writing, to fix upon a place and a time not more than thirty days thereafter where and when the court will try, ascertain, assess and determine the amount of such compensation, a certified copy of which order, at least twenty days before the time so fixed upon, shall be served upon the party from whom the right, privilege and easement is sought as summons are served in civil actions of said court, and such service when made shall be ample notice to and summons for the party so served to appear and join in the proceedings and shall be ample to give the court full jurisdiction over the party against whom the proceedings are instituted and the property involved in the proceedings.

(Id. § 3.)

§ 7727. Same — Trial — Election of gross sum or annual rental—Writ.

At the time and place so fixed for ascertaining, assessing and determining the compensation aforesaid the court shall immediately proceed to try said matter, without a jury, if the parties consent, and if they do not consent and if the time and place fixed for said hearing is at a general or special term of said court where a petit jury has been summoned the court shall proceed to the hearing of such matter with a jury selected and sworn from the panel present at said term, in the same manner as jurors are selected in civil actions, and if the regular panel is exhausted before a jury is secured talesmen may be summoned. In case said proceedings are made returnable at any other time than at a term where a petit jury shall have been summoned the court shall make an order requiring the selection of twenty-four jurors from those returned by the county commissioners, which jury shall be drawn and selected in the same manner provided by law for the drawing of jurors for general terms of the district court, and from the jurors so returned a jury shall be selected the same as in civil actions and the trial shall proceed after the manner of trials in civil actions and the court or jury, as the case may be, shall find and assess compensation both in the form of an annual rental and in the form of a gross sum for the right, privilege and easement sought, and immediately after the finding or verdict has been made the party against whom the proceedings have been taken shall elect whether to receive the annual rental or the gross sum found, and in case such election is not made by this party then the other party to the proceedings may make such election, and after election is made as aforesaid judgment shall be rendered adjudging, among other things, that upon the payment of the gross sum found or the annual rental found, yearly in advance, as the case may be, the party instituting the proceedings shall be entitled to the right, privilege and easement of erecting and maintaining the elevator or warehouse asked for in the application and petition aforesaid and for the time therein specified; and thereupon the party in whose favor said judgment is rendered shall be entitled to a writ of execution in proper form to immediately invest such party with the right, privilege and easement aforesaid.

Forfeiture—Appeal—Costs.

In case the annual rental is elected the same shall be paid yearly in advance, and if not so paid after thirty days' default the right, privilege and easement aforesaid shall be absolutely forfeited. Within thirty days after the entry of said judgment as hereinbefore provided, but not later, an appeal may be taken by either party to the supreme court, but such appeal shall not stay or hinder the use or enjoyment to the fullest extent of the right, privilege and easement asked for by the petition and conferred by the judgment, if the party instituting the proceedings shall make and file a bond, with sureties, to be approved by the court in an amount double the gross sum or annual rental, conditioned to pay such sum or rental and to abide and satisfy any judgment the supreme

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court may render in the premises. Costs and disbursements as in civil actions shall, in each court, be paid by the unsuccessful party. If the findings of the court or jury is for a less or the same amount as tendered by the petitioner before instituting the proceedings, then the petitioner shall be deemed the successful party; but if the amount found is larger than the sum tendered, then the petitioner shall be deemed the unsuccessful party. In the supreme court, if the judgment or order appealed from is reversed or modified, the appellant shall be deemed the successful party; but if the judgment or order appealed from is affirmed, the respondent shall be deemed the successful party.

(Id. § 4.)

§ 7728. Same—Warehouses to be deemed public—To be open from September 15th to January 15th.

All elevators and warehouses erected and maintained under the provisions of this act, shall be deemed public elevators and public warehouses and shall be subject to legislative control and shall be kept open for business for the public for reasonable business hours from the fifteenth day of September in each calendar year to the fifteenth day of January in each succeeding calendar year. Any person, firm or corporation who fails to comply with the provisions of this section shall forfeit the rights, privileges and easements acquired under this act.

(Id. § 5.)

§ 7729. Same—Erection of warehouses.

Any persons, firms or corporations availing themselves of the provisions of this act shall within sixty days after the amount to be paid for the easement acquired thereunder is finally determined by agreement or by proceedings in court, commence the erection of the warehouse or elevator stated in the application referred to in section one and complete the same within ninety days thereafter, and in case of failure to comply with the provisions of this section they shall be deemed to have abandoned the right, privilege and easement acquired, and the part or portion of the railroad right of way described in their application shall be subject to selection by other applicants who may desire to avail themselves of the provisions of this act.

(Id. § 6.)

§ 7730. Side track to warehouse, etc.—Location.

The owner or owners of any elevator, warehouse or mill of not less than five thousand bushels capacity, located on lands adjacent to the right of way of any railroad company in this state, at or in the immediate vicinity of any regular way station of any railroad, shall have the right to demand of such railroad company the construction of a side track over its right of way from such elevator, warehouse, mill or manufactory, which said side track shall connect with a switch with the main or other side track of such railroad, at a point within a reasonable distance from such way station, and the railroad company shall build said side track and make such connection at its own expense. And in case no suitable place for the erection of such elevator, warehouse or mill can be had, for any cause, within the distance occupied by the switches, then the railroad and warehouse commission shall have the right, upon application of either party in interest, to designate a place for the erection of the same, not more than one-quarter of a mile beyond the end of such switch; provided, however, that no such owner or owners shall have the right to demand, nor shall any such railroad company be required to construct any side track under the provisions of this act which shall connect with the main track of such railroad outside of the outside switches of the yard of such station or siding as the same may be established at the date of such demand.

(1893, c. 55, § 1.12)

¹²An act to provide for the construction of side tracks and switches upon the right of way of railroad companies, to elevators, warehouses, mills or manufactories located on lands adjacent to the right of way of any railroad company in this state. Approved March 15, 1893.

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§ 7731. Same—Maintenance—Compensation for use.

Such side track and switch shall at all times be under the control and management of, and be kept in repair and be operated by the railroad company constructing or owning the same, and used for the business of such elevator, warehouse, mill or manufactory, for whose use the same may have been constructed, upon such terms and conditions as may be agreed upon by the owner or owners of such elevator, warehouse, mill or manufactory and the railway company building such side track and switch, or in case of failure to make such agreement upon such terms and conditions as are imposed by the railroad and warehouse commission, as provided in section three of this act.

(Id. § 2.)

§ 7732. Same—Application to commissioners upon failure to agree.

In case the owner or owners of such elevator, warehouse, mill or manufactory and the railroad company of which the demand is made cannot agree upon the location of such side track and switch, or upon the terms and conditions upon which the same shall be constructed, maintained and operated, either party may apply to the railroad and warehouse commission of this state, which is hereby authorized and required, after hearing the parties, to fix the location and the terms and conditions upon which such railroad company shall be compelled to locate, build, maintain and operate such side track and switch, and the decision of the railroad and warehouse commission in relation thereto shall be accepted and received as an administrative order, made pursuant to section ten of chapter ten of the general laws of Minnesota of 1887, and shall be enforced as all other administrative orders as are in said act provided.

(Id. § 3.)

[TITLE 3.]

[FURNISHING SEED GRAIN.]

For act to appropriate money to purchase seed grain for sufferers from grasshopper ravages, see Laws 1877, c. 156.

For act authorizing state loan to furnish seed for such persons, see Laws 1878, c. 93.

For act to furnish and distribute seed grain to sufferers from grasshopper ravages, see Laws 1878, c. 94.

For acts extending time of payment for grain furnished under the latter act, see Laws 1879, c. 68, and Laws 1881, c. 149.

For act providing for cancellation of certain claims of the state for repayment of such loans under acts of 1877 and 1878, see Laws 1885, c. 226, as amended 1887, c. 192.

For act to furnish seed grain to certain applicants in the counties of Marshall, Polk, Big Stone, Lac qui Parle, Swift, Norman, Chippewa, Becker, and Wilkin, and to authorize the issue of bonds for payment thereof, see Laws 1887, c. 182.

For appropriations in aid of persons who lost their crops by hail in 1886, see Laws 1887, cc. 212, 262.

For act in relation to furnishing seed grain to certain applicants in the counties of Otter Tail, Hubbard, Becker, Clay, Norman, Polk, Marshall, Kittson, Beltrami, and Wadena, and for the issue of bonds to pay therefor, see Laws 1889, c. 4, as amended cc. 5, 6.

For act extending time of payment under the foregoing act, see Laws 1891, c. 18.

For act in relation to furnishing seed grain to certain applicants in Traverse, Big Stone, Stevens, Lac qui Parle, and Pope counties, and for the issue of bonds in payment therefor, see Laws 1891, c. 158, as amended c. 159.

§ 7733. Appropriation.

That the sum of seventy-five thousand dollars, or as much thereof as may be necessary, be and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purchase of seed grain for sufferers by hail or storms during the year 1892, as hereinafter provided.

(1893, c. 225, § 1.¹³)

¹³ An act to appropriate money for seed grain loans to farmers in this state whose crops were destroyed by hail or storms last year. Approved March 9, 1893.

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§§ 7734-7735

§ 7734. Application—Duty of county commissioners—Of state officers.

Any person desiring to avail himself of the provisions of this act shall file with the town clerk of the town in which he resides a written application, wherein shall be made to appear the number of acres of land owned or occupied by said applicant, the number of acres he intends to sow with grain and the number of bushels necessary to furnish the requisite amount of seed therefor. The town clerk shall, within three days after the receipt of such application, transmit the same through the mails or otherwise to the county auditor of the county in which he resides, and the county auditor upon receipt thereof shall file the same in his office. It shall be the duty of the county auditor to give public notice by publication in two or more of the newspapers printed and published in his county, by one or more publications therein on or before the twenty-fifth day of April, 1893, that the board of county commissioners of such county will meet at his office at a day to be named by the said auditor for the purpose of considering the allowance of relief to such applicants. The board of county commissioners when convened for such purpose shall, by resolution, fix and determine the amount of money to be allowed to each of such applicants for the purchase of seed grain; and it shall be the duty of the county auditor to furnish a certified copy of such resolution immediately after its adoption by the said board to the state auditor. It shall be the duty of the governor, together with the state treasurer and state auditor, to meet on or about the fifth day of May, 1893, to consider the applications arising from the several counties of the state for relief under the provisions of this act, and they shall distribute the appropriation hereby made among the several counties of the state by which relief is sought, as equitably as may be; provided that no county shall be awarded a greater sum than the aggregate amount indicated by the several applications transmitted by the county auditor of such county to the state auditor, as hereinbefore provided. It shall be the duty of the state auditor after such determination by the governor, state treasurer and state auditor to certify to the several counties of the state interested the amount of such proportion allowed to them respectively, and thereupon the county auditor shall, in case the amount so allowed is not sufficient to supply all the applicants in his county with the full relief demanded, set apart to each one separately such proportion of the amount so allowed as his individual demand bears to the total amount demanded by all such applicants in his county. Provided, that any person or persons owning more than 160 acres of land, free from mortgage incumbrance, whether the same be cultivated or not, shall be deprived from any of the benefits as set forth in this act.

(Id. § 2, as amended 1893, c. 226, § 3.)

§ 7735. Record of loans to be kept—Tax levy—Lien—Sale of grain a misdemeanor, when.

That it shall be the duty of the county auditor to keep a correct account of the amount of money allowed to each applicant under the provisions of this act, together with a correct description of the land for which such loan may be granted; and the county auditor shall levy a tax against the land for which such seed grain loan may be granted, and on which such loan is hereby declared to be a lien which shall take precedence over any and all incumbrances acquired subsequent to the lien of such loan and upon the crop of grain raised each year by the person receiving such loan, until such amount is fully paid. And any person who shall sell or otherwise dispose of any portion of the grain threshed from such crop without first paying into the county treasury, out of the first moneys received from such sale, sufficient thereof to pay and discharge the installment due or first to become due on the loans so made, shall be guilty of a misdemeanor, and, on conviction thereof, be imprisoned in the county jail for a period not to exceed one year.

(1893, c. 225, § 3, as amended 1893, c. 226, § 1.)

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§§ 7736-7740

WHEAT AND OTHER GRAIN.

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§ 7736. Receipt.

That each person receiving such loan, and the owner or owners thereof, if applicant has a lease of such land, shall give a receipt therefor, authorizing the county auditor to levy a tax on such real estate contained in the tract of land on which such seed grain loan may be a lien, for an amount sufficient to pay the principal and interest at five per cent per annum until paid.

(1893, c. 225, § 4.)

§ 7737. Tax to be paid in three installments.

That such tax shall be paid in three installments, as nearly equal as may be, and be included in the tax levy for the years 1894, 1895 and 1896.

(Id. § 5.)

§ 7738. Warrants.

That upon certified lists being received by the state auditor from any county auditor in this state requesting seed grain loans as allowed by the county commissioners of his county, the state auditor shall draw a warrant on the state treasurer for the amount allowed as hereinbefore provided, payable to the treasurer of such county for the amount of such order, and the respective amounts allowed to the persons named in such list shall be paid by the county treasurer upon the warrant of the county auditor.

(Id. § 6.)

§ 7739. Payment to state treasurer of moneys collected.

All moneys collected by the county treasurer on account of this act shall be paid over to the state treasurer with the other taxes, after any and all settlements between county auditors and treasurers.

(Id. § 7.)

§ 7740. Delinquent taxes, how collected—Penalty for wilful acts of officers.

That in case of any tax provided for under the provisions of this act being uncollected at the end of each year in which such taxes became delinquent, such amount shall be ascertained by the board of county commissioners, and an order issued therefor, payable to the state treasurer, out of the revenue fund of such county. Provided, that in case the county commissioners fail to ascertain the amount of delinquent taxes as in this section provided or fail to issue their order therefor when so ascertained, the district court shall, upon the application of the attorney general, appoint a suitable person to ascertain the amount of such delinquent taxes, and, when so ascertained, said court shall order and direct the entry of judgment against the county for the amount of the delinquent taxes so ascertained, together with all costs and interest thereon at the rate of ten per cent from the date such taxes became delinquent. Any public officer who shall willfully refuse to comply with the requirements of any of the provisions of this act shall be deemed guilty of a misdemeanor, and, on conviction thereof, be imprisoned in the county jail for a period not to exceed one year, and not less than thirty days, or shall be fined a sum of not more than five hundred dollars nor less than two hundred dollars, and to stand committed until such fine shall have been fully paid and discharged.

(Id. § 8, as amended 1893, c. 226, § 2.)