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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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offense, or misdemeanor, he or they shall be subject to the existing laws of this state, and shall be punished accordingly: *provided*, these laws shall not extend to crimes committed by one Indian against the person or property of another Indian, except in the case of murder.

Passports required to go off reservation.

(2.) SEC. II. No Indian or Indians belonging to any tribe, band or bands whatever, within the limits of this state, shall be allowed to leave his or their reservations and cross the boundary line thereof, and go into or upon the lands, settlements and claims belonging to the white inhabitants, or build or erect any tent, tents or tepees upon any such lands as aforesaid, without having a passport from the superintendent, agent or sub-agent of Indian affairs, or from the officer of the United States commanding the nearest military fort on the frontier; or shall remain intentionally therein after the expiration of such passport: *and be it further provided*, such passport shall express the object, the time he or they are allowed to remain, and the route they shall travel, nor shall such passport confer upon any Indian or Indians the right or power for hunting or fishing on any such grounds as belong to the white inhabitants.

Officers to remove all without passports.

(3.) SEC. III. It shall be lawful for any sheriff, constable, or any other county or town officer, to remove any Indian or Indians from lands, settlements or claims belonging to the white inhabitants, if he or they have not complied with the provisions of the foregoing section; and it shall moreover be lawful, and shall be the duty of every peace officer in their respective counties and towns, in such cases as above stated, to call to their aid such persons or power as they may deem necessary.

Take effect.

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

Contravening acts repealed.

(5.) SEC. V. All acts or parts of acts contravening the provisions of this act are hereby repealed.

CHAPTER 128.

LANDS.

SECTION

1. Act of congress granting to state lands for railroads, accepted.
2. Act accepting when to take effect.
3. Incorporation of companies organized for the drainage of lands; corporate rights.
4. Declaration and copy of charter to be filed.
5. Authority to survey and open drains; *pro rata* tax on land benefited.
6. Owner may construct drains on his own land; allowance therefor.
7. Lateral drains, privilege to make by parties having paid their assessments.
8. Authority to run drains into lakes or streams, but not to overflow, or deplete, or injure.
9. Right of way across lands, subject to compensation therefor.
10. Right to create water-power, and dispose of same.
11. Damages by overflowing land, to be recovered.

SECTION

12. Damages how determined.
13. Exemplary or vindictive damages not to be allowed.
14. Judgment to become a lien upon the company's works.
15. Rights of company upon adjustment of damages.
16. Prohibition to enter upon the same lands by more than one company.
17. This act deemed a public act, and subject to amendment.
18. Repeal of acts inconsistent.
19. Act takes effect on passage.
20. Governor to appoint commission to select lands for completion of public buildings.
21. Governor to appoint persons to select salt springs and lands given by United States.
22. Sec. 21 and 22 when to take effect.

An Act to accept the Grant and execute the Trust conferred upon the Territory of Minnesota, by Act of Congress of March 3, A. D. 1857. (a)

[Passed May 19, 1857.] c. 15

(1.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* That the lands, rights, powers and privileges granted and conferred upon the territory of Minnesota, by an act of congress, entitled, "an act granting public lands to the territory of Minnesota, in alternate sections to aid in the construction of certain railroads in said territory, and granting public lands in alternate sections to the state of Alabama, to aid in the construction of certain railroads in said state," be and the same are hereby accepted upon the terms, conditions, and restrictions contained in said act of congress, and the territory of Minnesota hereby assumes and undertakes the trust created by said act of congress. Trust assumed.

(2.) SEC. II. This act shall be in force from and after its passage.

An Act to regulate and encourage the Drainage of Lands.

[Passed August 3, 1858.] c. 73

(3.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That any number of persons may associate themselves together for the purpose of draining lands and creating water privileges; and they may become incorporated with rights to have perpetual succession; to sue and be sued by their corporate name; to have and use a common seal, which they may alter at pleasure; to render the interest of stockholders transferable; to exempt the private property of its members from liability for corporate debts; to establish by-laws, and make all needful rules and regulations for the management of their affairs, and with such franchises and under such restrictions as are hereinafter set forth. Companies to be incorporated for drainage of land.

(4.) SEC. II. Such persons shall file in the office of the register of deeds of the county or counties through which their drain or conduits shall pass, a declaration signed by all the corporators, expressing their intention to form such a company, which declaration shall also comprise a copy of the charter proposed to be adopted by them; and they shall also, before commencing any draining operations, file with the said declaration an instrument of writing, signed by a majority of the owners or occupants of the lands through which such drains or conduits shall pass, showing and certifying the consent and grant of the right of way given to the said company, by such majority of owners and occupants; and the said company or companies shall also publish a notice of their intention, and a description of the lands through which their drains, conduits, dams or works shall pass, once a week for three successive weeks in a public newspaper published in the county where their operations are to be, or if there is no newspaper published in said county, then by posting at least three notices to the same effect along the proposed line of said conduits, drains or dams. Declaration and copy of charter to be filed.

(5.) SEC. III. The said corporations are hereby authorized and empowered to cause such surveys and examinations to be made as may be necessary to ascertain the most advantageous route through which their Authority to survey and open drains; pro rata tax on land benefited.

(a) The lands accepted by the above act were all granted to several railroad companies by the act of May 22, 1857, entitled "an act to execute the trust created by an act of congress entitled 'an act making a grant of land to the territory of Minnesota in alternate sections, to aid in the construction of certain railroads in said territory, and granting public lands in alternate sections to the state of Alabama, to aid in the construction of a certain railroad in said state,' and granting certain lands to railroad companies therein named."

This act, being entirely of a private nature except the granting clauses, it is omitted with this reference. It is to be found on page 3 of the laws of 1857, extra session.

drains may be conducted, and to cause estimates to be made of the probable cost thereof, and to tax and collect a *pro rata* assessment of the same on the lands to be benefited by such improvement or drainage, but in no case shall any tax be levied on lands through which the right of way has been obtained and which said lands are not improved nor benefited by such canal or drains; nor shall any lands be taxed at a higher or different rate than a just proportion of the entire cost of the drain or drains throughout the entire length of the same, and with reference to the section or sections passing through the same; neither shall any tax be levied or assessed by authority of this act for any ditch, dam, culvert, race or canal wider than ten feet, nor deeper than six feet, but any such company may construct or excavate any ditch, conduit or canal to a width not exceeding twenty feet, and to such depth as they may require, and in such case the excavation and construction may only be taxed against the owners or occupants of lands through which the same shall pass, and who may be benefited thereby, to the extent of the width and depth of such conduit, firstly herein set forth.

Owners may con-
struct drains;
compensation.

(6.) SEC. IV. It shall be lawful and competent for the owner or occupant of any lands through which said drains may pass, to construct, or aid in the excavation and construction of any section of the same passing through his or their lands, and to be credited with the same on his or their assessment, at such rate as shall be equal to the average contracts of the company, for such work, or as may be agreed upon between the parties, but all such work shall be done under the superintendence of the company, their engineer or agent, and any default on the part of the said owner or occupant, in time or inadequacy of the work, shall authorize and empower the company to finish, alter or complete the same, as they may deem best.

Lateral drains;
privilege to
make.

(7.) SEC. V. The owner or owners of any lands through which said conduits shall pass, and who shall have paid their assessments thereon, shall, in all future time have the right and privilege to make lateral drains through any portion of their lands so assessed, and to lead and conduct the same into the main conduit, but no other person or persons shall have such right without the consent of the company.

Extension of
drains into lakes
or streams.

(8.) SEC. VI. It shall be competent for any such company to lead or construct their said conduits, canals or drains, from or into any lake, brook, stream or water course; but this section shall not be so construed as to authorize any company to deplete, empty or overflow any lake, brook or stream, to the injury or damage of any person or persons without their consent, and no drain made by any such company shall be allowed to overflow or run out upon any lands to their damage; but all such drains, conduits, races or canals shall be conveyed to a running stream, lake, river or other absorbing conduit, and every such company shall be responsible for any violation of this section to the parties injured thereby, the damages to be assessed in the manner hereinafter set forth.

Right of way
across lands;
corporation.

(9.) SEC. VII. Any such corporation or company shall have the right of way across all lands, not being in an incorporated town or village, whenever a majority of the owners of such lands have consented to the same, and said companies may appropriate to their own use and control for the purposes of their drains or appurtenances, such width of tract throughout its entire length not exceeding thirty feet, as the said company shall absolutely require for the purposes and objects of their incorporation, subject however to the payment of such compensation as the companies may agree to pay therefor, or as shall be ascertained in the manner hereinafter directed and provided, and the said companies shall have the right to cross public roads, highways, streams or other water courses: *provided*, that at such crossings the said company or companies

shall restore said road, highway, stream or water course so disturbed, to its former state, or in a manner not to impair their usefulness to the person or persons occupying, or to the public.

(10.) SEC. VIII. It shall be lawful for any such company to raise or save the water running through said drains, canals or conduits, by a dam or dams, at such places as they shall deem expedient, and to make use of such water for propelling any kind of machinery, or for any other purpose, and to sell or lease the right to use such water, or any part thereof, to any person or persons whomsoever.

Right to create water powers.

(11.) SEC. IX. In case the raising of the waters by means of the dams aforesaid, shall damage any land not owned by the company, and without the consent of the owner or owners thereof, or in case the right of way shall be taken by such companies across any field or lands without the consent of the owner or owners, to his or their detriment or damage, or in case any stream, lake, marsh or lands, shall be depleted, emptied or overflowed, to the injury or damage of any person or persons, without their consent, by the operations, act or acts of any such company, then and in all such cases, the owner or owners of any such lands so injured or damaged, shall recover from such company, just compensation for all damages occasioned by the passage of such drains or conduits through their lands, or by the depletion, emptying or overflowing of such lake, stream, marsh or lands, or by raising of the waters as aforesaid, and by maintaining such conduits and dams forever.

Damages for overflowing lands.

(12.) SEC. X. Such damages shall be determined by the verdict of a jury in an action brought in any court of record having jurisdiction of civil action, and at the request of either party the jury shall take a view of the premises, under order of the court.

Damages; how determined.

(13.) SEC. XI. In such action no exemplary or vindictive damages shall be allowed, but if judgment shall be rendered for the plaintiff, the court shall have power in its discretion to award to the plaintiff, extra cost in addition to the costs ordinarily taxable, but not exceeding in all, double the amount of ordinary costs.

Exemplary damages not to be allowed.

(14.) SEC. XII. Judgment shall be rendered and execution issued in such action, as in ordinary actions for injuries to real estate, and such judgment, from the time of docketing the same, shall become a lien upon the dam, or dams, of the company, the mills furnished with water thereby, and their rights and privileges in such water power, by whomsoever the same may be owned or possessed.

Judgments to become a lien upon company's works.

(15.) SEC. XIII. Upon payment and discharge of any such judgment, the said company or companies, or their assigns (as against the party recovering such judgment, his heirs and assigns) shall enjoy forever the right to keep up and maintain the conduit, dam, or dams, respecting which such judgment was rendered, and the remedy provided by this act for any such injuries to lands, or rights as are herein mentioned, shall be exclusive of all other remedies of whatever nature.

Rights of companies.

(16.) SEC. XIV. After the performance by any company or association of persons of the condition prescribed in section 2, it shall not be lawful for any other company or association of persons, to enter in any manner whatever upon the same lands for draining purposes, nor to tap or break into any conduit constructed by the first company, nor to drain any lake, stream, or marsh, drained or to be drained by the said first company, unless a default shall occur, or remain by the neglect or failure of the said company to commence their operations within one year from the filing of their declaration in the office of the register of deeds, as specified in section two (2) of this act, or a subsequent default in the failure of the said first company to complete their undertaking, as specified in their published

Prohibition to other companies to enter upon same lands:

declaration of intention, within five years from the date of such publication, but this section shall not be construed so as to prevent any owner of lands throughout such tract, to drain his own lands meanwhile in such manner as he may have otherwise legally done.

Declared a public act. (17.) SEC. XV. This act is hereby declared to be a public and general act, and may be amended by any subsequent legislature in any manner not destroying or impairing vested rights.

Conflicting acts repealed. (18.) SEC. XVI. All acts and parts of acts contravening the provisions of this act are hereby repealed.

Act take effect when. (19.) SEC. XVII. This act shall take effect and be in force from and after its passage.

An Act to authorize the Governor to select Lands, and secure the title thereof.

[Passed August 2, 1868.] c. 88

Commission to be appointed to select lands; donation by United States. (20.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That the governor of this state is hereby authorized to appoint a commission, consisting of one or more persons, to assist him in the selection of certain lands granted to the state of Minnesota for the purpose of completing the public building, or for the erection of others at the seat of government, and also to take such measures as shall secure the title of said lands, when thus selected for the state.

Persons to be appointed to select salt springs and lands. (21.) SEC. II. That the governor shall select or appoint some suitable person or persons to make the selection of the twelve salt springs and six sections of land granted to this state by the enabling act, and take such measures as are necessary to secure a title thereto.

Act when to take effect. (22.) SEC. III. This act shall take effect and be in force from and after its passage.

CHAPTER 129.

DAMS AND MILLS.

1. Mill-dams may be erected on certain conditions.
2. Petition to be presented to the court of record, stating the purposes for which the dam is to be erected.
3. Judge shall appoint three commissioners to inquire.
4. Commissioners to take oath of office.
5. Commissioners shall give notice of meeting on request.
6. Manner of serving notice, and time.
7. Commissioners to view the premises and assess damages.
8. Thirty days thereafter shall report.
9. Manner of payment of damages assessed.
10. Appeals, how to be taken.
11. Appeals not to hinder the erection of dams; petitioner to file bond to abide decision.
12. Appellant to file bond to abide decision.
13. Appeals shall bring up the propriety of damages assessed, and shall be tried by jury, unless otherwise agreed to by parties.
14. Exemplary or vindictive damages not to be allowed.
15. Upon verdicts of jury, judgment shall be entered and payment made as provided for the assessments of commissioners.
16. No mill-dam shall be erected under this act, to the injury of power previously improved.
17. Limitation of time for action for damages.
18. Pre-emptors may have remedy for damages.
19. Section eighteen when to take effect.
20. Dams heretofore erected may be raised.
21. Suspension of suits for damages, upon filing of petition for rights under this act.
22. All costs to be paid by the petitioners except in appeals.
23. Right to enter upon land for purposes of survey.
24. Conditions to be complied with on part of petitioner to retain rights.
25. Relieves Olmsted county from the provisions of this act, and maintains all rights under previous law.