

GENERAL STATUTES

33

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 1.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOT
REMEDIAL, THE LATTER BEING IN VOL. 2.

COMPILED AND ANNOTATED

BY

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OF THE ST. PAUL BAR.

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MINNESOTA STATUTES 1891

CHAPTER 39 (New).

LAND FOR STATE AND UNITED STATES PURPOSES.

- TITLE 1. CONDEMNATION FOR STATE PURPOSES.
2. CONDEMNATION FOR UNITED STATES PURPOSES.
3. PURCHASE OF LAND BY UNITED STATES.
4. JURISDICTION OF UNITED STATES.

In consequence of the Probate Code expunging thirteen chapters of the General Statutes, the continuity of the chapters could not be preserved; hence it was deemed best to begin the renumbering here instead of at chapter 46, where the repeal commenced, so as to place all laws political and fiscal together.

Sections.

CONDEMNATION FOR STATE PURPOSES.

- 3683-3689. For state institutions—Proceedings.
3690-3703. For United States—Proceedings.
3704. For improvements on rivers, etc.
3705. In construction of dams.

Sections.

PURCHASES BY UNITED STATES.

- 3706-3711. Authorized—Jurisdiction.

JURISDICTION OF UNITED STATES.

- 3712-3721. Over land and for surveys.

TITLE 1.

CONDEMNATION FOR STATE PURPOSES.

SEC. 3683. **For any state institution.**—Whenever it shall be determined by the officers in charge, or designed to be in charge, of any state institution, that it is necessary for the state to acquire, for the use of such institution, any real estate, whenever the same shall not be acquired by agreement, the title to the same may be acquired by the state as hereinafter provided.

1874, ch. 36, § 1: "An act to provide for obtaining title to lands by the state of Minnesota for the use of the state." Approved March 9, 1874.

SEC. 3684. **Proceedings to condemn.**—The attorney general may, on behalf of the state, and for the use of any institution requiring for its uses such lands, give notice of his intention to apply for the appointment of three commissioners to appraise said real estate and the damage for taking the same, to the district court in and for the county where such lands shall be situated, or to a judge of said court, giving a general description of the lands to be appraised or taken, and specify the time and place of such application; which said notice shall be published at least once in each week for three successive weeks, in a newspaper published in the county where the lands to be taken shall be situate, or if no newspaper shall be published in said county, then in a newspaper published in the city of St. Paul. At the time and place named in said notice, the attorney general, for and on behalf of the state, may present an application to said district court, or to a judge thereof, setting forth the name of the institution requiring said lands, and the general purposes for which the same are desired to be taken, and particularly describing said lands, for the appointment of such commissioners; and thereupon the court, or a judge thereof, may proceed to appoint three commissioners, who shall have cognizance of all cases named in such application, and shall have power to appraise the value of all such land, and the damages for the taking of the same; and said commissioners, before entering upon the duties of their office, shall severally take and subscribe an oath to the effect that they will faith-

MINNESOTA STATUTES 1891

SECS. 3685-3688.] CONDEMNATION OF LAND FOR STATE PURPOSES.

fully perform their duty as such appraisers, without partiality, and to the best of their knowledge and ability, which oath shall be filed in the office of the clerk of the district court of the county in which the lands to be appraised shall be situate; and thereupon such commissioners shall proceed to examine the premises, in each lot or parcel of land separately, having given such notice as they may deem reasonable to the owner, owners, or persons interested in said lands, and to the guardian of any minor or insane person, which notice shall be in writing, and shall be served on such owner, interested person or guardian, if such person shall be a resident of the county where such lands are situated; and if such person or persons shall not reside in said county, then by publishing such notice in such newspaper as such commissioners may select, and for such time as they may choose; and at the time and place named in notice, the commissioners shall proceed, or a majority of them shall proceed, in each case or parcel of land, to an appraisal thereof, and of the damages sustained or to be sustained by reason of the taking and use of such land, and shall make award, in writing, of such damages; and shall deliver one copy of such award, signed by the commissioners, or a majority of them, to the clerk of the district court in and for such county, to be by him filed in his office, and shall deliver another copy of such award to the attorney general, to be by him filed in his office.

1874, ch. 36, § 2.

SEC. 3685. **Appeal.**— Either party may appeal from such award at any time within thirty days from the filing said award in the office of the attorney general, by filing with the clerk of said court a notice of appeal, signed by the party claiming such damage, or by the attorney general on behalf of the state; and in case of appeal by either party, the clerk shall enter the appeal as an action in such court, naming the owner of such lands as plaintiff, and the officer or officers of the state representing the institution for the benefit of which such property is taken; and thereafter such appeal shall be tried as other causes in such court are tried, and a judgment rendered therein.

1874, ch. 36, § 3.

SEC. 3686. **Costs.**— In case such appeal shall be taken by the claimant of damages, and upon the trial the award of the commissioners shall be raised, then the appellant shall recover costs, otherwise such appellant shall pay costs; and if such appeal shall be taken on behalf of the state, and upon trial the award shall be decreased, then the said plaintiff shall pay costs; but if on trial such award shall be raised, then the plaintiff shall recover costs.

1874, ch. 36, § 4.

SEC. 3687. **Payment.**— The award or the judgment rendered in case of appeal shall be and remain a claim against the state, and shall be paid out of any money in the treasury not otherwise appropriated, pursuant to special appropriation therefor; and in all cases such award, if not appealed from, or the judgment rendered thereon in case of appeal, shall be and the same is hereby declared sufficient security for value and damage by reason of taking such property for public use, within the true meaning and intent of the constitution; and if no appeal shall be taken within the time prescribed in this act, or where an appeal has been taken and judgment shall have been rendered therein, the state, by its proper officers, may thereafter enter upon and take possession of said property, and appropriate the same to the uses and purposes named in the application.

1874, ch. 36, § 5.

SEC. 3688. **Judgment roll.**— In case judgment shall be rendered on appeal, the clerk shall attach the application, the award of the commissioners, and copies of all notices, and proof of publication or service thereof, together with the verdict and final judgment in the case, and the same shall

MINNESOTA STATUTES 1891

CONDEMNATION OF LAND FOR UNITED STATES PURPOSES. [SECS. 3689-3694.

constitute the judgment roll, to be filed in the office of the clerk of said court.

1874, ch. 36, § 5a.

SEC. 3689. **Title in fee.**— Title to land acquired under this act shall be absolute, and vest in the state of Minnesota the absolute title in fee-simple to such land.

1874, ch. 36, § 6.

TITLE 2.

CONDEMNATION FOR UNITED STATES PURPOSES.

SEC. 3690. **Authorized.**— The governor of the state of Minnesota is hereby authorized and empowered to seize and take possession of any lands, for the purpose of conveying the same to the United States, for use in river or harbor improvements, or for the erection and maintenance of light-houses thereon, not exceeding one hundred and sixty acres for any one light-house, whenever the general government shall signify its intention to use the land for the above-described purposes, by an application to the governor, accompanied by a plat and description of the land required, as near as the same can be platted and described without actual survey by the general government.

1874, ch. 37, § 1: "An act to authorize the seizure and condemnation of lands to be used by the United States for river and harbor improvements and for light-house purposes." Approved March 9, 1874.

SEC. 3691. **Commissioners.**— Whenever any such application shall be made to the governor, he shall appoint three commissioners, whose duty it shall be, in the name of the state of Minnesota, to enter upon and take possession of any land so described and platted, for the purpose of conveying the same to the United States, and to cause the same to be surveyed, and a plat thereof to be made and filed in the office of the secretary of state, whenever an actual survey has not been made by the general government.

1874, ch. 37, § 2.

SEC. 3692. **Appraisement.**— It shall be the duty of said commissioners to appraise the said land, and, for that purpose, they shall give notice to the claimant or owners of said land, or of any interest therein, of the time and place when and where said claimant or owner may appear before said commissioners to have their claims and interest adjusted, and the compensation to be paid by the state for such land fixed and determined.

1874, ch. 37, § 3.

SEC. 3693. **Service of notice.**— The notice required to be given to said claimants or owners shall be given personally to such claimant as can be found within this state, at least twenty days before the meeting of said commissioners, informing them of the time and place of meeting of said commissioners, and the object thereof. And in case any of the said claimants or owners cannot be found, after using due diligence for that purpose, the commissioners shall cause such notice to be published for four successive weeks in one paper published at St. Paul, and one paper published within the county where such lands seized as aforesaid are situate, should one be published therein.

1874, ch. 37, § 4.

SEC. 3694. **Powers of commissioners.**— The said commissioners, or a majority of them, shall have full power to do all acts necessary to be done for the purpose of carrying out the objects of this act, to hear, examine, and determine of and concerning the rights, interests and title of all and any of the

MINNESOTA STATUTES 1891

SECS. 3695-3698.] CONDEMNATION OF LAND FOR UNITED STATES PURPOSES.

claimants of said land, and also to assess the value thereof, and fix the compensation to be paid by the state therefor, as fully and effectually as if all the power necessary for the purposes aforesaid were herein specifically enumerated in this act; and the decision of such commissioners shall be final and conclusive in the premises, unless an appeal from the decision of such commissioners shall be taken within sixty days after the filing thereof in the office of the clerk of the district court of the county within which the said land lies, and the office of the secretary of state, and the service of the notices of such filing, as hereinafter provided.

1874, ch. 37, § 5.

SEC. 3695. Decision of commissioners.— It shall be the duty of the commissioners appointed under the provisions of this act, within twenty days after their decision is made, to file the same in the office of the clerk of the district court within whose district the said land lies, and transmit a copy of such decision to the secretary of state, to be by him filed in his office; and notice of the filing of such decision shall be served by said commissioners on the parties interested, and on the governor of the state; and the time of taking the appeal hereinafter provided for shall commence to run, as against each party entitled to take the same, from the time of such service on him of the notice of such filing of the decision of said commissioners.

1874, ch. 37, § 6.

SEC. 3696. Appeal.— The owners or claimants of said land, or of any interest therein, or the state of Minnesota, shall be entitled to appeal from the decision of said commissioners to the district court of the judicial district in which the land lies within sixty days from the filing of the same as aforesaid, and the service of the notices hereinbefore provided for; and such appeal shall be heard and determined in like manner as appeals from the report of commissioners for condemning lands for the use of railroad corporations, so far as the same may be applicable: *provided*, that the appellant or appellants shall make and file in said court, at the time of such appeal, an oath or affirmation that injustice has been done them by such decision: *and provided*, that if such appeal is taken by any other party to such proceedings than the state of Minnesota, the party so appealing shall execute, and file with the clerk of the district court aforesaid, an undertaking, with sufficient sureties, to be approved by the county clerk, for the payment of all costs and disbursements incurred by the state arising from such appeal, which undertaking shall be in the name of the state of Minnesota.

1874, ch. 37, § 7.

SEC. 3697. Costs.— If, upon the trial of such appeal, in case the same shall be taken by any owner or claimant, and the appellant or appellants shall fail to recover a judgment for sum greater than the amount awarded to them by the decision of the commissioners aforesaid, not including interest, the said appellant or appellants shall pay all costs and disbursements arising on such appeal, and which shall be deducted from the sum awarded by the decision of the commissioners; and in case such sum is not less than the amount awarded by said commissioners, then the appellant or appellants shall recover costs as in like cases in the district court; and in case such appeal shall be taken by the state, and the amount of such award is not decreased by said trial, costs shall be recovered against the state as aforesaid. But if the amount of such award is decreased by said trial, the claimant or owner against whom such appeal was taken shall pay all costs and disbursements arising from such appeal, and which shall be deducted from the sum awarded by verdict of the jury.

1874, ch. 37, § 8.

SEC. 3698. Fees.— The commissioners appointed under the provisions of this act shall each receive three dollars per day for each day actually engaged

MINNESOTA STATUTES 1891

CONDEMNATION OF LAND FOR UNITED STATES PURPOSES. [SECS. 3699-3704.]

in the service required of them, and their actual expense of travel and subsistence while so engaged; and witnesses required to attend before them shall receive the same per diem and mileage as now allowed by law for witnesses attending the district courts of this state.

1874, ch. 37, § 11.

SEC. 3699. Payment.—The sum awarded by the decision of said commissioners, or finally adjusted and awarded by an appeal, to be paid by this state to the owners and claimants of the lands aforesaid, shall be paid from the treasury of this state to such owners or claimants, in proportion to their rights and interests in such lands, subject, however, in case of an appeal, to the provisions of section seven of this act: *provided*, that such money shall in no case be paid till the United States has formally signified its acceptance of the lands so appraised, and desire to purchase the same at the price awarded therefor.

1874, ch. 37, § 9.

SEC. 3700. Vesting of title.—Upon the filing of the final award under such proceedings in the office of the clerk of the district court aforesaid, and of the surety of the state, and the formal acceptance of the same by the United States, provided for in section nine, the title to the lands so seized and appraised, and accepted by the United States, shall immediately thereupon become vested absolutely in this state, free and clear from all incumbrances, and adverse titles or claims of any kind or nature whatsoever.

1874, ch. 37, § 10.

SEC. 3701. Conveyance to United States.—The governor of Minnesota is hereby authorized and empowered to convey to the United States any lands that may have been seized under the provisions of this act, upon the payment of the United States, to the state of Minnesota, the amount awarded, and all expenses incurred by this state in seizing the land.

1874, ch. 37, § 12.

SEC. 3702. Jurisdiction of United States.—The jurisdiction of this state is hereby ceded to the United States of America over all such pieces or parcels of land as shall be hereafter conveyed to the United States for the purpose of erecting light-house buildings thereon: *provided*, that this cession is upon the express condition that the state of Minnesota shall so far retain a concurrent jurisdiction with the United States, in and over the tracts of land aforesaid, that all civil and criminal process, issued under the authority of the state, or any officer thereof, may be executed on said lands, and in the buildings that may be erected thereon, in the same way and manner as if jurisdiction had not been ceded as aforesaid.

1874, ch. 37, § 14.

SEC. 3703. Exemption from taxation.—The lands aforesaid, when so ceded, shall forever be exempt from all taxes and assessments, so long as the same shall remain the property of the United States.

1874, ch. 37, § 13.

SEC. 3704. For improvements on rivers, lakes and harbors.—In case it shall be found necessary or proper to overflow, occupy or take the lands of any person in the prosecution or maintenance by the United States government of any works of public improvement on any of the rivers, lakes or harbors of this state, the United States are hereby authorized and empowered to take, overflow, use or occupy any lands necessary, requisite or proper for the carrying on the public works of improvement on said rivers, lakes or harbors within this state, in the same manner and with like effect as is now provided by title 1, chapter 34, general statutes A. D. one thousand eight hundred and seventy-eight (1878), relating to the taking of private property for public uses by corporations, and all the provisions of law in said title,

MINNESOTA STATUTES 1891

SECS. 3705-3708.] PURCHASE OF LAND BY UNITED STATES.

so far as the same may be applicable, shall apply in relation to such overflow, use, occupation or taking, and the assessment of damages therefor, as if the United States were a corporation duly organized under said title.

1881, Ex. S. ch. 67: "An act to provide for the condemnation of lands by the United States for purposes of public improvements on the rivers, lakes and harbors in this state." Approved November 22d.

SEC. 3705. Right to overflow in construction of dams.—That whereas it is proposed by the United States to improve the navigation of the Mississippi river by the construction of dams and the creation of reservoirs upon the head waters of said river and its tributaries, causing possible overflow and damage to the lands bordering upon such reservoirs, therefore, in consideration of such improvements, there is hereby ceded to the United States the right to overflow so far as necessary in the construction of any such dams and reservoirs, any and all lands owned or held by the state, and that all right or claim of the state for damages occasioned by any such overflow, whether against the United States or any agent or employee thereof, be and the same is hereby fully released and satisfied.

1881, Ex. S. ch. 60: "An act ceding to the United States the right to overflow certain lands of the state and relinquishing the claim of the state to damages occasioned thereby." Approved November 18, 1881.

TITLE 3.

PURCHASE OF LAND BY UNITED STATES.

SEC. 3706. Authorized.—That the consent of the state of Minnesota be and the same is hereby given to the purchase, by the government of the United States, or under the authority of the same, of any tract, piece or parcel of land, from any individual, individuals, or bodies politic or corporate, within the boundaries or limits of the state, for the purpose of erecting thereon light-houses, signal stations, and other needful public buildings whatever pertaining to the light-house board; and all deeds, conveyances of like papers for the same shall be recorded, as in other cases, upon the land records of the county in which the land so conveyed may lie; and in like manner may be recorded a sufficient description, by metes and bounds, courses and distances, of any tract or tracts, legal division of any public lands belonging to the United States, which may be set apart by the general government for any or either of the purposes before mentioned, by an order, patent, or other official document or papers so describing such land; the consent herein and hereby given being in accordance with the seventeenth clause of the eighth section of the first article of the constitution of the United States, and with the acts of congress in such cases made and provided.

1871, ch. 36, § 1: "An act giving the consent of the state of Minnesota to the purchase by the United States of land within this state for public purposes." Approved March 6, 1871.

SEC. 3707. Exemption from taxation.—The lots, parcels or tracts of lands so selected, together with the tenements and appurtenances for the purposes before mentioned, shall be held exempt from taxation by the state of Minnesota.

1871, ch. 36, § 2.

SEC. 3708. Certain land in St. Paul.—That the consent of the legislature of the state of Minnesota be and hereby is granted to the United States to purchase and hold in this state for the purpose of erecting a building thereon to be used as a depot for supplies for the army or other purposes, the following described tracts and parcels of land to wit: Commencing at the south-west corner of lot number four in block number thirty-one of St. Paul

MINNESOTA STATUTES 1891

PURCHASE OF LAND BY UNITED STATES. [SECS. 3709-3711.]

proper, thence running northerly along the west line of said lot four one hundred and seven thirty-one one-hundredths feet to an alley, thence at right angles easterly along the southerly line of said alley to the easterly line of said lot four; thence southerly along said east line of said lot four to the southeast corner of said lot four, thence westerly along the northerly line of Second street to the place of beginning; all being a part of lot four in block thirty-one of the original town of St. Paul as surveyed by Ira Brunson; also lot number three in said block number thirty-one of St. Paul proper, according to the recorded plat thereof on file in the office of the register of deeds of said county of Ramsey; said lands being situated in said county of Ramsey, Minnesota.

Jurisdiction.— And jurisdiction over the same is hereby ceded to the United States from and after such date as the title thereto shall have been vested in the United States.

Map—Record.— The secretary of state shall, within one month after the title to said land is vested in the United States, cause a map of the same to be made showing definitely the boundaries thereof and shall file the same in his office and make a proper record thereof.

1883, ch. 94, §§ 1, 2: "An act to cede to United States jurisdiction over certain territory in the city of St. Paul, and granting consent of legislature to the purchase of same by United States, as provided by section 355 of Revised Statutes of the United States." Approved February 26, 1883.

SEC. 3709. Concurrent jurisdiction.— From the cession of jurisdiction to the United States, hereby granted, the following reservation is hereby made, to-wit: The state of Minnesota shall have and hereby does reserve and retain a concurrent jurisdiction with the United States in and over the territory aforesaid so far as may be necessary for said state and its officers to serve any process or papers, civil or criminal, that may be lawfully issued under the authority of said state or of any of the departments of the government thereof, and to arrest on said territory and punish any person or persons charged with crime against the laws of said state whether committed within or without the boundaries of said territory in the same manner and to the same extent as though said cession of jurisdiction had not been made.

1883, ch. 94, § 3.

SEC. 3710. Certain land in Duluth.— That the consent of the legislature of the state of Minnesota be, and hereby is granted to the United States to purchase and hold in this state, for the purpose of erecting a building thereon, to be used for and by the United States courts, post-office, the collector of customs, internal revenue, land office, signal service, and other government purposes, the following described tracts and parcels of land, to-wit: The westerly thirty feet of lot seventy-three, and all of lots seventy-five, seventy-seven, and seventy-nine west First street, in Duluth proper, first division.

Map—Record.— The secretary of state shall, within one month after the title to said land is vested in the United States, cause a map of the same to be made, showing definitely the boundaries thereof, and shall file the same in his office and make a proper record thereof.

1889, ch. 59, §§ 1, 2: "An act to cede to the United States jurisdiction over certain territory in the city of Duluth, Minnesota, and granting the consent of the legislature to the purchase of the same by the United States as provided by section 355 of the Revised Statutes of the United States." Approved March 8, 1889.

SEC. 3711. Concurrent jurisdiction.— From the cession of jurisdiction to the United States hereby granted, the following reservation is hereby made, to-wit: The state of Minnesota shall have and hereby does reserve and retain a concurrent jurisdiction with the United States in and over the territory aforesaid so far as may be necessary for said state and its officers to serve any process or papers, civil or criminal, that may be lawfully issued under the au-

MINNESOTA STATUTES 1891

SECS. 3712-3715.] LAND — JURISDICTION OF UNITED STATES.

thority of said state or of any of the departments of the government thereof, and to arrest on said territory and punish any person or persons charged with crime against the laws of said state, whether committed within or without the boundaries of said territory in the same manner and to the same extent as though said cession of jurisdiction had not been made.

1889, ch. 59, § 3.

TITLE 4.

JURISDICTION OF UNITED STATES.

SEC. 3712. Over site for custom-house.— That jurisdiction is hereby ceded to the United States over so much land as may be necessary and appurtenant to a site for the erection, construction and maintenance of a United States custom-house and post-office in the city of Saint Paul, state of Minnesota, not to exceed ten acres, the same to be selected by an authorized agent of the United States, and the selection to be approved by the governor.

Map to be filed.— That upon such selection a map of the territory selected, definitely showing the boundaries thereof, with the approval of the governor required in section one of this act endorsed thereon, shall be filed in the office of the secretary of state of the state of Minnesota, and by him recorded.

1867, ch. 79, §§ 1, 2: "An act to cede to the United States jurisdiction over such territory in the city of St. Paul, Minnesota, as may be selected by the general government as a site for a custom-house and postoffice." Approved February 9, 1867.

SEC. 3713. Over fish hatchery.— That jurisdiction is hereby ceded to the United States over so much land as may be appurtenant and necessary to the construction of a fish hatchery by the United States and the maintenance thereof at the mouth of Lester river near Duluth in the state of Minnesota, not to exceed ten acres, five acres of which have been heretofore donated to the United States for said purpose.

Map.— The secretary of state shall, within one month after the title to said land is vested in the United States, cause a map of the same to be made showing definitely the boundaries thereof and shall file the same in his office and make a proper record thereof.

1887, ch. 102, §§ 1, 2: "An act ceding jurisdiction to the United States over certain lands donated to the United States for a fish hatchery." Approved March 2, 1887.

SEC. 3714. Over territory within Fort Snelling reservation.— That jurisdiction is hereby ceded to the United States of America over the following described territory, to-wit: Beginning at a point where the south line of the northeast quarter of the northeast quarter of section thirty-two, of township twenty-eight, north of range twenty-three, west of the fourth principal meridian, intersects the middle of the main channel of the Minnesota river; thence west to the southwest corner of the northwest quarter of the northwest quarter of section thirty-two, town and range aforesaid; thence north to the northwest corner of section twenty, town and range aforesaid; thence east to the middle of the main channel of the Mississippi river; thence along the main channel of the Mississippi river to the confluence of the Mississippi river at the head of Pike Island, and the middle of the Minnesota river to the place of beginning; provided the public highways across said reservation shall be kept open for public travel.

1889, ch. 57, § 1: "An act to cede jurisdiction to the United States over the territory embraced within Fort Snelling reservation." Approved April 24, 1889.

SEC. 3715. Concurrent jurisdiction.— From the cession of jurisdiction to the United States, hereby granted, the following reservation is hereby

MINNESOTA STATUTES 1891

LAND — JURISDICTION OF UNITED STATES. [SECS. 3716-3721.]

made, to-wit: The state of Minnesota shall have and hereby does reserve and retain a concurrent jurisdiction with the United States in and over the territory aforesaid, so far as may be necessary for said state and its officers to serve any process or papers, civil or criminal, that may be lawfully issued under the authority of said state or of any of the departments of the government thereof, and to arrest on said territory and punish any person or persons charged with crime against the laws of said state, whether committed within or without the boundaries of said territory, in the same manner and to the same extent as though said cession of jurisdiction had not been made.

1889, ch. 57, § 2; 1887, ch. 102, § 3; 1867, ch. 79, § 3. This reservation of concurrent jurisdiction is the same as that in § 3, ch. 102, acts 1887, and § 3, ch. 79, acts 1867.

SEC. 3716. Interest in Antietam cemetery.— That the state of Maryland be and is hereby authorized to convey to the United States all right, title and interest of the state of Minnesota in and to the land occupied by the Antietam National Cemetery, in the county of Washington, in the state of Maryland, and if the said state of Maryland shall have already made such transfer of title to the United States, the assent thereto of the state of Minnesota is hereby granted, and the governor of this commonwealth is requested to transmit a copy of this act to the president of the United States, and to the governor of the state of Maryland.

1879, ch. 102: "An act to facilitate the transfer to the United States of the title to the Antietam National Cemetery in the state of Maryland." Approved March 3, 1879.

SEC. 3717. In surveying.— Any person employed in the execution of any survey authorized by the congress of the United States may enter upon lands within this state for the purpose of exploring, triangulating, leveling, surveying, and of doing any work which may be necessary to carry out the objects of then existing laws relative to surveys, and may establish permanent station marks, and erect the necessary signals and temporary observatories, doing no unnecessary injury thereby.

1889, ch. 60, § 1: "An act to provide for surveys authorized by congress of the United States in the state of Minnesota." Approved April 2, 1889.

SEC. 3718. Same — Damages.— If the parties interested cannot agree upon the amount to be paid for damages caused thereby, either of them may petition the district court in the county in which the land is situated, which court shall appoint a time for a hearing as soon as may be, and order at least twenty days' notice to be given to all parties interested, and, with or without a view of the premises, as the court may determine, hear the parties and their witnesses and assess damages.

1889, ch. 60, § 1.

SEC. 3719. Same — Tender.— The person so entering upon land may tender to the injured party damages therefor, and if, in case of petition or complaint to the court, the damages finally assessed do not exceed the amount tendered, the person entering shall recover costs; otherwise, the prevailing party shall recover costs.

1889, ch. 60, § 3.

SEC. 3720. Costs.— The costs to be allowed in all such cases shall be the same as allowed according to the rules of the court, and provisions of law relating thereto.

1889, ch. 60, § 4.

SEC. 3721. Defacing monuments of survey.— If any person shall wilfully deface, injure or remove any signal, monument, building or other property of the U. S. coast and geodetic survey, constructed or used under or by virtue of the act of congress aforesaid, he shall forfeit a sum not exceeding fifty dollars for each offense, and shall be liable for damages sustained by the United States in consequence of such defacing, injury or removal, to be recovered in a civil action in any court of competent jurisdiction.

1889, ch. 60, § 5.