

### CHAPTER 111

#### CONSERVANCY

NOTE: The commission created by L. 1945 c. 491 reported that L. 1937 c. 468, as amended, and as set forth in sections 111.43 to 111.63 and generally known as water resources law of 1937 covered to some extent the same provisions as were found in sections 105.01 to 105.12 and advised that the above coded sections be repealed and a new act adopted to adequately cover the subject of water resources and administration in one simplified chapter. Consequently, the above quoted sections were repealed by L. 1947 c. 142 s. 20, and L. 1947 c. 143 s. 67 and the provisions contained in the repealed sections were revised and superseded by L. 1947 c. 142, now coded as sections 105.37 to 105.55.

#### 111.02 DECLARATION; CITATION.

Riparian owners have a natural right to have natural streams flow unimpaired in quality as well as quantity; and are entitled to have a lake level remain at its natural high-water mark, and anyone, even a municipal corporation, obstructing or interfering with the natural flow of the waters from the lake so as to raise water level above high-water mark is liable for resulting damages. *Greenwood v Evergreen Mines*, 220 M 296, 19 NW(2d) 727.

#### 111.11 ESTABLISHMENT OF DISTRICT; CLASSES.

Legislative authority to provide for drainage and reclamation of swamp lands and the prevention of floods may be exercised by the creation of local drainage districts; and power to inaugurate and control systems of drainage and reclamation within their boundaries, and to assess the cost against property benefited thereby, is valid. *Pennington Co. v Red Lake District*, 154 M 442, 192 NW 184.

#### 111.20 GAGES.

While the title of a riparian owner on navigable or public waters extends to ordinary low-water mark, his title is not absolute except to the high-water mark. As to the intervening space the title of the riparian owner is qualified or limited by the public right. The public may set traps in the intervening space. When flood waters flood territory above the high-water mark, the riparian owner has supreme control above the high-water mark. OAG Dec. 9, 1946 (276-c-6).

#### 111.22 RIGHTS OF LANDOWNERS TO USE OF WATER.

While the title of a riparian owner on navigable or public waters extends to ordinary low-water mark, his title is not absolute except to the high-water mark. As to the intervening space the title of the riparian owner is qualified or limited by the public right. The public may set traps in the intervening space. When flood waters flood territory above the high-water mark, the riparian owner has supreme control above the high-water mark. OAG Dec. 9, 1946 (276-c-6).

#### 111.65 OWNERS MAY INITIATE PROCEEDINGS.

NOTE: County board proposing to dig well for purpose of improving lake level should explore the possibilities of 1947 lake improvement law before proceeding under section 111.65.