

[No. 322, S.]

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CHAPTER 383.

AN ACT to amend chapter 525, of the laws of 1887, entitled, "An act to amend chapter 442, of the laws of 1885, entitled, "an act to provide for drainage and reclamation of certain lands in Dane county."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Proceedings,
how instituted
for reclama-
tion of certain
lands, etc., in
Dane county.

SECTION 1. Whenever twenty-five or more owners of wet or overflowed lands, which, in their opinion, will be benefited by the system of drainage, and subject to the assessment hereinafter provided, and who shall be of the opinion that the public health or welfare will be promoted thereby, shall desire to institute proceedings for the drainage and reclamation of lands in such part of Dane county, either by constructing, extending, opening, enlarging, widening, straightening or deepening water-courses, or removing natural or artificial obstructions therefrom, or by permanently lowering the ordinary level of the water in any or all of the six lakes in said county known as lakes Mendota, Monona, Waubesa, Kegonsa, Wingra and Mud lake, they may apply to any court of record for Dane county, at any term thereof, or to the presiding judge thereof, by petition, for the institution of such proceedings, and the appointment of three commissioners, to be known as drainage commissioners of drainage district number one of Dane county. Such petition shall specify, in general terms, the nature of the improvements desired to be made, as near as may be, without preliminary survey, the amount of lands to be benefited thereby, the benefits to the public health or convenience, and to private property, which, it is believed, will result from such system of drainage, and that such system of drainage is practicable. The petition shall also specify in general terms, the streams, lakes or water-courses proposed to be dredged, widened, deepened, straightened or altered in course, and the lakes to be lowered, and to what

Petition to be
verified and
filed.

extent, and the principal obstructions to be removed, as far as known to petitioners; and that, in the belief of the petitioners, the costs, damages and expenses will be less than the benefits which will result to the owners of the lands likely to be benefited thereby; and if any town or city, as a whole, will be benefited by such system of drainage, the petitioner may so state, setting forth the nature of such benefits. The common council of the city of Madison may join in said petition in behalf of said city, and town board may join in the same, being thereto first duly authorized by a vote of said town. Said petition may also inform the court of any other matters relative or pertinent to the matter. Such petition shall be verified by the oath of one or more persons, and shall be filed with the clerk of said court.

SECTION 2. Upon the filing of such petition the court or presiding judge thereof, shall make an order prescribing the notice to be given of the time and place of hearing the said petition, which notice shall be given to all parties interested, by publication of the same in one or more newspapers published in said county for not less than once in each week for four successive weeks before the date fixed for the hearing. On presenting such petition with due proof of publication of the notice as required by said order, the court or presiding judge shall make an order appointing three disinterested and competent freeholders as commissioners, and the said court or judge shall then and there fix the time and place for the first meeting of the commissioners. The commissioners shall, before entering upon their duties, take and subscribe an oath that they will support the constitution of the United States and the constitution of the state of Wisconsin, to faithfully discharge their duties as commissioners to the best of their ability, and vacancies happening in the commission shall be filled in like manner by the said court or judge, and the removal of any commissioner from the county shall vacate his office; and each commissioner shall execute a bond before entering upon the duties of said office as such commissioner to be filed with the county clerk as obligee for the benefit of all persons interested, in amount and with sureties to be approved by the court or presiding judge, conditioned

Judge to appoint time and place for hearing—when.

Appointment of commissioners.

Duties.

to the faithful discharge of his duties as such commissioner and the faithful accounting for and application of all moneys which shall come to his hand as such officer. The county clerk shall, upon due qualification of the commissioners, issue to them a certified copy of the order for their appointment.

County clerk to issue certificate to commissioners.

Meeting of commissioners to take oath of, file bond.

SECTION 3. Upon the day fixed for the first meeting of said drainage commissioners, said commissioners shall meet at the time and place fixed by said order and shall qualify by taking the requisite oaths and filing the bond required by this act. After said qualification of said commissioners, provided said petitioners shall file with the county clerk a bond to said commissioners with good and sufficient sureties to be approved by said county clerk, conditioned to pay all expenses incurred in case said commissioners shall decide against said system of drainage, said commissioners shall place a copy of the original petition in the hands of some competent engineer to be by them selected, who shall without delay, taking with him the necessary assistants, proceed to make an accurate survey of the route of said proposed system of drainage, and of all the lands tributary to said lakes and to the Catfish river, and which will be affected by said proposed system of drainage, and on the completion thereof, shall return to the county clerk a plat and profile of the same, with a description of the proposed route, its availability, and of each separate tract of land through which the drain will pass, or which will be affected by said system of drainage, its situation and level as compared with adjoining lands, and the obstructions necessary to be removed, and such other facts as he shall deem material, and such specifications as shall be necessary for the construction of the proposed work. Thereupon said commissioners shall cause a notice of the pendency and prayer of said petition, and of the time and place of hearing the same, and a general notice of the object of said petition, to be published for at least three successive weeks before said hearing, in some newspaper published in said county.

Bond to commissioners.

Duties.

Notice of hearing to be given.

May cause further survey to be made, when.

SECTION 4. On the day fixed by such notice for the hearing of such petition or on some other day to which such hearing may be adjourned,

said board of commissioners, after hearing the parties interested in the same who shall appear, shall decide upon said petition, and if they shall be of the opinion that the public health or welfare will be thereby promoted, and shall decide favorably upon the intended work, they shall make an order therefor and cause a further survey to be made if necessary and a map and plan, specifications and estimates thereof to be made, and shall cause such orders, plans, specifications and surveys to be filed with the county clerk of Dane county, who shall keep and file a complete record of all proceedings in each such case; and said lands affected by said system of drainage shall be and constitute a district to be called the first drainage district of Dane county, and the county clerk shall be clerk of said drainage commissioners of said district. All damages for lands taken for the purposes of said drainage system and all damages to property of any kind in the reduction or removal of dams or water-powers may be fixed by agreement in writing between the owner thereof and said board of commissioners, and shall be filed with the county clerk, which agreement shall forever preclude such owner and all persons claiming under him from all further claim for damages. Said drainage commissioners shall make an award in writing of damages to every owner of lands so taken, which shall not have been so agreed upon, and file the same in the office of the county clerk within thirty days after filing the order directing such system of drainage to be made.

Awards, how made.

SECTION 5. As soon as the plans for the work have been determined, the commissioners shall proceed to make special assessments for benefits by classifying the lands in the district in tracts of forty acres, more or less, according to the legal or recognized subdivisions on a graduated scale, to be numbered according to the benefits to be received by the contemplated drainage. The tracts of land which will receive most and about equal benefits shall be marked "one hundred," and such as are adjudged to receive less benefits shall be marked with a less number, denoting its per cent. of benefit. This classification, when established, as hereafter provided, shall remain as a basis for such levy of taxes as may be needed

Special assessments for benefits to be made, classification of.

for the lawful and proper purposes of the drainage district.

Notice to be served on parties owning land likely to be affected.

SECTION 6. The commissioners shall cause to be personally served upon all parties owning land to be affected by the proposed work, or other property liable to be taxed under this act, and residing in the county, a written or printed notice of the time when, and place where they will meet to hear any and all objections that may be made to the classification of lands on the graduated scale, which notice shall be served, in case of residents in the county, not less than ten days before the time set for hearing, and in the same manner as is provided by law for service of summons in circuit court; and the commissioners shall cause to be sent by mail such notice to all owners who do not reside in the county, whose land is to be affected, in case their post-office address is known to the commissioners, or any of them, or can be ascertained by use of reasonable diligence; and in case the land of any non-resident is to be affected, then publication shall be made in some newspaper published in said county, for three successive weeks prior to the time of such hearing, and such meeting to hear objections may be adjourned from day to day by public announcement of the commissioners, made at the meeting until all objections are heard; and all persons duly notified of the first day of meeting, as hereinbefore provided in this section, shall take cognizance of all such adjournments without further notification. The affidavit of any creditable person or persons that he has or they have posted such notices hereinbefore required, and the certificate of the publishers of such newspaper as to such publication, shall be prima facie evidence of such facts.

Review by commissioners.

SECTION 7. At the time of meeting for review the commissioners shall hear whatever objections may be urged by any person interested, and if satisfied that any injustice has been done in the classification of the several tracts of land, or any of them, they shall correct the same in accordance with what is right; but if not so satisfied, they shall leave the classification as first made and enter an order to that effect. Any person appearing and urging objections, who is not satisfied with the decision of the commissioners, may

appeal from their decision as hereinafter provided within ten days after the decision of the commissioners was rendered, by filing with the county clerk a notice of appeal and bond with security to be approved by said county clerk conditioned to pay such tax as may finally be levied upon the laud in question and the costs occasioned by the appeal, in case the commissioners shall be sustained. The appeal shall contain a description of the lands, the classifications, as determined by the drainage commissioners and shall fix a certain time and place, not less than six nor more than ten days after the date of the filing thereof, at which the appelland will apply to the county judge for a jury to determine said classification.

Appeal may be taken.

Notice and bond to be approved by county clerk.

SECTION 8. At the time and place mentioned in such notice, the county judge shall make a list of fifteen disinterested freeholders of the county, not of kin to any of the owners or occupants of said laud described in said notice of appeal. Each party may object to five on such list, and if none of the commissioners be present, the county judge shall strike off five names for the commissioners and shall thereupon issue a precept to the sheriff or any constable of said county, directing him to summon the five persons named in said list not objected to by the parties to meet at the time and place to be specified in said precept, to fix the classification of said land. At the time and place appointed for the appearance of said jury, they shall be sworn by the county judge or by any officer authorized to administer oaths, justly and impartially to make such classification, and they shall examine the same and hear the allegations and testimony in opposition and support of the same and may, if they deem it necessary, visit the district and view the lands. If they find the tracts of land in question are marked too high or too low in the classification, they shall correct the errors, but if no injustice has been done, they shall confirm the classification as made by the commissioners, their final determination shall be made in writing and filed with the county clerk. The classification, when established, as hereinafter provided, shall be recorded with other papers in a book to be kept by the county clerk as the drainage record and shall be conclusive.

County judge to make list and issue precept to jury, to fix classification.

Commissioners may order necessary funds to be raised by special assessment.

SECTION 9. The commissioners by resolution shall order such amount of money to be raised by special assessment upon the lands of the district as may be necessary and such amount shall be apportioned among the several tracts in the name of owner when known, according to acreage of each and its figure of classification on the graduated scale, so that each tract may bear its equal burden in proportion to benefits. They shall make out a special assessment roll, hereinafter designated tax list, setting down in separate columns the owners' names, when known, and when unknown, stating unknown, a description of the land, the number denoting the classification, the tax, the damages allowed, if any, or any other credit to be given to the owner. The balance of tax over credits or of damages or other credits over the tax showing the amount due to the district, by each land owner on the separate tracts, or, due to the land owner by the district shall be set down in final columns. When completed the list shall be filed with the county clerk.

SPECIAL ASSESSMENT TAX LIST.

Form of list.

Owner's Name.	Description of Land.				No. classification on scale.	Tax levied.		Total Credits.		Balance due District.		Balance due Owners.		Remarks.
	Sec.	Tp.	R.	Ac's.		Dol	Cts	Dol	Cts	Dol	Cts	Dol	Cts	
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Appeal may be taken on ground that tax exceeds benefits.

SECTION 10. Any party against whose land a tax has been thus levied, may, within ten days after the list has been deposited with the county clerk, appeal as hereinafter provided, by filing a bond in double the amount of tax appealed from, in the county clerk's office, but the appeal shall be upon the ground only that such tax is a greater amount than the benefits to accrue to the lands in ques-

tion by the proposed drainage; provided, that in any proceedings under this act, where the costs have been unnecessarily or improperly made, such costs may be adjudged against the party making the same, but the taking of any appeal by any person or persons, as herein provided, shall not operate to delay the collection of any tax from which no appeal has been taken, nor delay the progress of the work.

SECTION 11. When any person shall have been aggrieved by any decision of the commissioners awarding him damages on account of property taken or for the destruction or removal of any dam or the interference with any right of flowage or any other injury to real estate on account of said system of drainage by the imposition of any tax as provided in the next preceding section, he may appeal from the action of the commissioners herein, as follows: Within ten days after the filing with the county court of the decision of the commissioners fixing any such damages or levying any tax as herein provided, he shall file with the county clerk a bond conditioned to pay all costs of said appeal, not exceeding the sum of two hundred and fifty dollars, said bond to be with security approved by the county clerk and a notice, setting forth the land which is affected by said decision or action of said commissioners, and the action of the commissioners with respect thereto, at which he is aggrieved. Said notice shall also specify the time and place in which said person will apply to the county judge of the said county for the drawing of a jury to assess said damages or establish said tax, as hereinafter provided. At the time and place mentioned in said notice, the county judge shall make a list of fifteen disinterested, resident freeholders of the county, not of kin to any of the owners or occupants of said lands described in said notice of appeal. Each party may object to five on said list and if none of the commissioners be present, the county judge shall strike off five names for the commissioners and shall thereupon issue a precept to the sheriff or any constable commanding him to summon the five persons named in said list, not objected to by the parties, to meet at the time and place to be specified in said precept, to appraise the damages

Appeal from
decision of
commissioners,
how taken.

County judge
to issue pre-
cept.

sustained by the owner or owners appealing from the action of said commissioners, as aforesaid. At the time and place appointed for the appearance of said jury, they shall be sworn by the county judge, justly and impartially to make such appraisal of damages or to determine such tax, and shall, if they deem necessary, proceed to view the premises in question and hear the statements and proposition of the parties, and they shall make their return of their appraisal to the county judge, which shall be certified by said judge and filed with the county clerk, with the awards of the commissioners aforesaid, and if the amount of the appraisal by said jury shall exceed the amount awarded by the commissioners or if said tax shall be decided in favor of said appellants, the costs and expenses shall be paid by the commissioners from the funds belonging to said drainage commission, otherwise by the appellant. Either the commissioners or the party aggrieved may appeal to the circuit court for Dane county from the decision of said jury, taking such appeal in the same manner, with the same notice and affidavit as an appeal is taken from a judgment of a justice of the peace; but said appeal shall be brought to trial in the circuit court for Dane county and tried therein the same as any appeal cases from justices of the peace as aforesaid, and shall thereafter be deemed an action pending in said circuit court, subject to all the rules of practice and to all the rights of appeal to the supreme court as shall pertain to actions in the circuit court, the costs and expenses to follow the final determination of said appeal.

Appeal not to operate to delay collection of tax.

SECTION 12. The taking of any appeal by any person or persons as herein provided, shall not operate or delay the collection of any tax from which no appeal has been taken, nor delay the progress of the work.

Tax may be paid by installments.

SECTION 13. It shall be competent for the commissioners to order the tax to be paid in installments of such amounts and at such times as will be convenient for the accomplishment of the proposed work; otherwise, the whole amount of such tax shall be payable immediately upon such confirmation, and shall be a lien upon the lands assessed until paid; and such taxes shall draw

interest at the rate of eight per cent. per annum from the time they shall become payable till they are paid, and such interest may be collected and enforced as part of the taxes.

Interest.

SECTION 14. Immediately after the commissioners shall have filed their tax list, the county clerk shall make out and certify to the county treasurer a copy of said tax list; and the said county treasurer shall be, ex-officio, the treasurer of said drainage funds, and shall execute a bond to the state of Wisconsin for the use of all persons interested, in a sum not less than twice the amount of taxes levied, conditioned for the faithful performance of his duties as treasurer of said drainage district, and that he will faithfully account for all money that, by virtue of said office, shall come to his hands. Such bond shall be with such sureties as may be approved by the commissioners, and said bond shall be kept and preserved in the office of the county clerk. In case the said county treasurer shall fail to give such bond, as treasurer, the commissioners may appoint a treasurer, who shall be treasurer of said drainage district until the said county treasurer or his successor shall give such bond.

Clerk to certify list to county treasurer.

Bond.

When commissioner may appoint a treasurer.

SECTION 15. It shall be the duty of the treasurer of said drainage district to keep, in proper books to be furnished him by the commissioners, an accurate account of all moneys received by him and all disbursements of the same. He shall pay out no money except upon the order of a majority of the commissioners, and he shall carefully preserve on file all orders for the payment of money, and as often as required by the commissioners shall render a correct account to them of all matters pertaining to his office, with the vouchers and other papers and records in his possession as such treasurer, verifying the same, and he shall turn over all books, papers, vouchers, money and property belonging to and in his hands or under his control as such treasurer, to his successor in office, and the commissioners shall have the right to examine the same at all times.

Duties of treasurer.

SECTION 16. It shall be the duty of the county treasurer to certify to the respective town, village and city treasurers a list of all taxes levied and assessed upon lands in the respective towns, villages and cities wherein the same shall be and

County treasurer to certify list of all taxes levied and assessed for drainage.

of the amount thereof assessed against each separate tract for the purposes of said drainage district, at the usual time and in the usual manner as provided by the general laws for the collection of county taxes, and said town, village and city treasurers shall collect the same in the usual manner and at the usual time, as provided by the general laws for the collection of county taxes, and shall return the same in the same way to the county treasurer, and the treasurers of said towns, villages and cities shall make out a certified list of all delinquent lands upon which the taxes or any installment or any part thereof remains unpaid, and the same shall be by him, on or before the day fixed by law for the returning of the list of delinquent taxes, returned to the county treasurer of said county. And the like proceedings shall be had, and with like force and effect in the collection of said delinquent tax or installment, and the sale of said lands for the non-payment thereof, as in ordinary collections of state and county taxes and the sales of real estate by them, for such non-payment and of redemption from such sales. At the sale of lands for any delinquent drainage assessment or tax, the commissioners may become the purchasers or may designate or appoint some person to attend and bid at such sale on behalf of said district.

Delinquent taxes, how collected.

May enter upon lands or real estate, when.

SECTION 17. The said commissioners shall have the right to enter upon any land or real estate upon which they have procured said right by agreement, or upon which the damages shall have been ascertained and fixed, as provided by this chapter, for the purpose of prosecuting said work, the same as if said real estate shall have been actually condemned, but no injury shall be done to real estate, and no dam shall be removed or destroyed or interfered with in any way, until the damages as agreed upon, or as ascertained and fixed by this chapter, shall have been actually paid or deposited as hereinafter provided, subject to the order of the person to whom they belong. All excess, if any, of allowances for right of way, and damages over the amount of tax against the same person, shall be paid or tendered to the owners thereof, before the commissioners shall be authorized to enter upon said lands for the construction of any work thereon in case the

owner is unknown, or there shall be a contest in regard to the ownership of the land, or the commissioners cannot, for any reason, safely pay the same to the owner, they may deposit the same with the clerk of the circuit court and said court may order the payment thereof to such party as shall appear to be entitled to the same. The said commissioners may divide the ditch or ditches into sections, if they shall see fit, or they may let the entire work on one or more contracts; provided, that in case the work is on the farms or lands of two parties only, the amount on each shall be let separately, and the owners of the land shall have the preference where the bids are equal, to construct that part belonging to his own land.

Ditches may be divided into sections.

SECTION 18. As soon as practicable the commissioners shall cause notice to be given of the time and place of letting, and of the kind and amount of work to be done, and where plans of the same may be seen, by publication for twenty days in some newspaper printed or published in said county. Said bids shall be under seal, and the commissioners may reject any and all bids, and may continue the letting from time to time, if, in their judgment, the same be necessary, and may require the contractors to give approved bonds conditioned for the faithful performance of said work. Said commissioners shall not, during their term of office, be interested, directly or indirectly, in any contract for the construction, repair or maintenance of any work in such drainage district, nor in the wages nor supplies to men or teams employed on any work under their jurisdiction. Any person or persons taking any work under contract shall, on the completion thereof according to contract, be paid for such work by the treasurer, upon the order of the commissioners. If any person or persons to whom any portion of said work shall be let as aforesaid, shall fail to perform said work, the same shall be re-let in such manner as the commissioners may think best.

Notice of letting contracts for work.

How paid.

SECTION 19. In case any person from whom taxes are due contracts to do any work, and said work is done according to contract, the commissioners shall give such person a receipt for so much of said tax as said work amounts to, and

Receipt may be given owner for work done and applied on tax.

said receipt may be received by the treasurer as payment of so much of said tax.

Money may be used to compromise suits, etc.

SECTION 20. The commissioners may use money belonging to the district for the purpose of compromising suits and controversies arising under this act, and in employment of all necessary agents and attorneys in the prosecution or defense of said operations, and to pay all necessary employes; provided, the acts of the commissioners shall be uniform as to the rights of all persons and property.

May enter upon lands for purpose of making survey, etc.

SECTION 21. The commissioners may authorize any employes to go upon the lands lying within said district, for the purpose of examining the same and making surveys; and after payment or tender of compensation allowed may authorize all contractors with their servants, teams, tools, instruments or other equipments to enter for the purpose of constructing such proposed work, and may ever thereafter enter upon said lands as aforesaid for the purpose of maintaining or repairing such work, doing no more damage than the necessity of the occasion may require; and any person who shall wilfully prohibit or prevent any of the aforesaid persons from entering such lands for the purpose aforesaid shall be fined in a sum not to exceed twenty-five dollars per day for such hinderance, to be collected as other fines.

Penalty for preventing.

May use part of right of way of highways.

SECTION 22. The commissioners shall have the right to use any part of the right of way of any public highway, for the purposes of the work to be done; provided, such use will not permanently destroy or materially impair such public highway for public use; and if in the construction of said work any public highway or railroad, or any part of the same will be benefited, the commissioners may assess to such public road or railroad such sum or sums as will be just and equitable for such public road or railroad to pay in proportion to the benefits received; which shall be determined by estimating the amount of benefits to the entire district, including the benefits to such railroad or public road; and also the benefit to the railroad or the public road, then the fractional figures expressing the ratio between the sum of the benefits for the whole district, and the sum found to be the benefit to the railroad or public road, shall express the

Benefits, classification.

proportional part of the corporate taxes of the district to be paid by such railroad or public road as the case may be. Such proportional classification shall be subject to like review and appeals as is provided for individual land owners. The amount of such road tax shall be paid out of the road and bridge tax of the highway district of the town, village or city in which the public highway or part benefited lies. The commissioners shall have the power and are required to make all necessary bridges and culverts along or across any public highway or railroad which may be deemed necessary for the use or protection of the work, and the cost of the same shall be paid out of the road and bridge tax, or by the railroad company as the case may be; provided, however, notice shall first be given to the road or railroad authorities to build or construct such bridge or culvert, and they shall have thirty days in which to build or construct the same; such bridges or culverts shall in all cases be constructed so as not to interfere with the free flow of water through the drains of the district. Should any railroad company refuse or neglect to build or construct any bridge or culvert as herein required, the commissioners constructing the same may recover the costs and expenses therefor in a suit against said company before any justice of the peace or any court having jurisdiction, and reasonable attorney's fees may be recovered as part of the costs. The proper authorities of any public road or railroad shall have the right of appeal the same as provided for individual land owners.

Railroads or public roads.

To make necessary bridges, etc.—cost, how paid.

When railroad refuses or neglects to build bridge or culvert, commissioners to recover cost of.

Appeal.

SECTION 23. After the completion of the work the commissioners shall thereafter keep the same in repair; and if they find by reason of error in locating or constructing the ditches, or any of them, or from other causes the lands of the district are not drained or protected as contemplated, or some of them receive but partial or no benefit, they shall use the corporate funds of the districts to carry out the original purpose, to the end that all the lands so far as practicable shall receive their proper and equal benefits as contemplated when the lands were classified. If it be necessary to clear and enlarge natural or artificial channels lying beyond the boundaries

Repair.

May clear and enlarge channels.

of the district to obtain a proper outlet, the commissioners shall use the corporate funds for this purpose, and if the necessary privileges cannot be obtained for this by agreement, the commissioners may acquire the same by condemnation under the act for exercising the right of eminent domain; provided, in all such cases if sufficient funds are not on hand the commissioners shall make a new tax levy.

Penalty for
injuring, filling
up, etc., of
drains or
ditches.

SECTION 24. Any person who shall wrongfully and purposely fill up, cut, injure, destroy, or in any manner impair the usefulness of any drain, ditch or other work constructed, established or belonging to the drainage district for the purpose of drainage or protection against overflow, may be fined in any sum not exceeding two hundred dollars to be recovered before a justice of the peace in the proper county. All complaints under this section shall be in the name of the state of Wisconsin, and all fines, when collected, shall be paid into the treasury of Dane county for the benefit of the school fund, and in addition to these penalties the person so wrongfully or purposely filling, or in any manner impairing the usefulness of any such drain or drains or other work, shall be liable to the commissioners having charge thereof for all damages occasioned to such work, and to the owners and occupants of land for all damages that may result to them by such wrongful act, which may be recovered before a justice of the peace, if within his jurisdiction, or before any court of competent jurisdiction.

Complaints,
how made,
fines to be
paid into
treasury.

Owner to re-
pair injuries
done by
animals to
ditches.

SECTION 25. Whenever an owner or occupant of land in the drainage district shall permit animals to pasture in an enclosed field through which runs an open ditch, which ditch is a part of a combined system of drainage, said owner or occupant shall repair such damage to the ditch as may be made by the animals, and if he neglects to do so, the commissioners shall make such repairs and require the said owner or occupant to pay the amount of the expense of such repairs to the treasurer of the district, and in case such owner or occupant shall neglect or refuse to so pay such amount for ten days after such requirement is made in writing, then said commissioners shall proceed to collect the same by a suit in law

in the name of such district before any court having jurisdiction.

SECTION 26. For a failure to perform any of the duties imposed upon them by the provisions of this act, the commissioners so failing shall individually, upon complaint made under oath by any person who has paid a tax for the construction, maintenance or repair of such work, be liable to a fine not exceeding one hundred dollars, to be recovered in an action in the name of the state of Wisconsin, before any justice of the peace in the county, and all fines, when collected, shall be paid into the treasury of Dane county for the benefit of the school fund.

Commissioners to be individually liable for neglect.

SECTION 27. Any and all assessments or levies hereafter made under the provisions of this act, shall be taken, held and considered to be a lien upon each and every tract of land or property assessed in such district to the extent and amount of the proportionate share assessed or levied against the same, but such land or owner thereof, shall not be liable for more than such proportionate share and the subsequent levy or levies for construction, and for the payment of interest or repairs, which lien may be discharged on the payment of the amount thereof to the treasurer of said district at any times before notes or bonds of the district are issued on the assessment. In case the owner or owners of any lands lying in said district, and which are assessed, fails or neglects to pay any assessment or assessments, installment or installments, tax levy or levies, when due, and the same be not collected on or before the annual sale of lands for non-payment of taxes, the commissioners of such drainage district may file a petition in the circuit court for a foreclosure of such lien; and the commissioners may proceed in their corporate name and capacity to foreclose such lien as provided by law for the foreclosure of a tax certificate. They may also commence and maintain suits at law for the recovery of judgment against the person or party whose lands or property is assessed for benefits for any assessment or tax, or any part thereof, which remains due and unpaid on the lands and property of such person or party. Any judgment so recovered may be enforced and collected as other judgments in the same court.

Assessments or levies to be a lien on land.

The remedy provided in this section for the collection of delinquent special assessments or taxes, shall not be construed to abridge or in any manner interfere with the right and power to enforce collection of any delinquent assessment or tax in the manner provided by the tax laws of this state, or other provisions of this act, but the remedy herein provided shall be taken and held as an additional means to enforce payment of such delinquent assessment or tax.

Compensation of commissioners.

SECTION 28. Each of the commissioners provided for in this act shall receive three dollars per day for the time actually and necessarily employed in the discharge of the duties of his office. They shall make out their accounts under oath, and their accounts shall be presented to and allowed by the judge of the county court; and the amount allowed by the said court shall be paid out of the funds of the district for which the services were rendered, and a majority of said commissioners shall have power to act and decide upon all matters pertaining to said drainage proceedings. The treasurer and clerk shall receive for their services such sums as may be fixed by the commissioners, not to exceed three hundred dollars each for their services in any one year. All fees and allowances shall be paid out of the funds of the district.

To be allowed by county judge and paid out of drainage fund.

Majority to decide.

Commissioners to fix compensation of treasurer and clerk.

New commissioner may be appointed.

SECTION 29. In case, after the completion of said work and the termination of office of said original commissioners appointed under this act, it should be necessary to repair or extend said original work, new commissioners may be appointed in the same manner, and with like powers, and subject to all the rules and regulations of this chapter, the same as the original commissioners appointed therein.

To be liberally construed.

SECTION 30. This act shall be liberally construed to promote the drainage and reclamation of the wet and overflowed lands in Dane county affected thereby, and in the preservation of the public health.

SECTION 31. This act shall take effect and be in force from and after its passage and publication.

Approved April 15, 1889.