

CHAPTER 95.

RELATIVE TO LINE FENCES.

H. F. 168. AN ACT to Amend Sections 1495 and 1508 of Chapter Four (4) Title Eleven (11) of the Code of 1873, in Relation to Line Fences.

Be it enacted by the General Assembly of the State of Iowa:

Sec. 1495 Code amended.

SECTION 1. That section 1495 of the code of 1873 be and the same is hereby amended by inserting after the word "encloses" in the fourth line thereof, the word "cultivates."

Sec. 1508 of Code amended

SEC. 2. That section 1508 of the code of 1873 be and the same is hereby amended by adding the following: to-wit, and section 1495 of the code of 1873 and all parts thereof shall be so construed in counties where stock is restrained from running at large as in counties where stock is not so restrained: provided that the provisions of this act shall not apply to counties having a population of less than twelve thousand inhabitants according to the census of 1885.

Approved March 31, 1888.

CHAPTER 96.

TILE OR OTHER UNDERGROUND DRAINAGE.

S. F. 268. AN ACT to Repeal Chapter 188 Laws of the Twentieth (20th) General Assembly and to Enact a Substitute Therefor Relating to Drainage.

Be it enacted by the General Assembly of the State of Iowa:

Chap. 188, acts 26 G. A. repealed.

SECTION 1. That Chapter 188, laws of the twentieth, General Assembly be repealed and the following enacted in lieu thereof: that whenever any person who is the owner of any swamp, wet or marsh land, which on account of its condition may endanger the public health or is not for that reason in a proper condition for cultivation shall desire to construct any tile or other underground drain through the land of another and shall be unable to agree with the owner or owners of such land as to the same he may file with the clerk of the township where said land is situated an application therefor giving a description of the land or lands through which he may desire to construct the same, and the township clerk shall forthwith notify the township trustees of said township of said application, who shall fix a time and place

Township clerk shall notify trustees.

for the hearing of same, which time shall not be more than twenty days distant, and they shall cause said clerk to notify the applicant and land owner of the time and place of said hearing at least ten days before the time fixed for the hearing of same, which notice shall be in writing, signed by said clerk, and shall be served on said applicant and land owner, if within the county, and if not then upon his agent for said land, if within the county in the same manner as is now provided by law for the service of original notices, and in case that neither said party nor his agent are residents within said county, then the same shall be served by posting written notices in three public places in said township, one of which shall be upon said land at least fifteen days before said hearing.

SEC. 2. That upon the day fixed for hearing, if said trustees are satisfied that the provisions of the prior section have been complied with, they may proceed to hear and determine the same and shall have power to adjourn from time to time until same is completed. Provided that no adjournment shall be for more than fifteen days.

Powers of Tp. trustees as to hearing case.

SEC. 3. The said trustees may fix the point or points of entrance and exit or outlet of said tile or other under-ground drain on said land, the general course of same through said land, the size and depth of same, when the same shall be constructed, how kept in repair, what connections may be made with same, what compensation, if any, shall be made therefor, and any other question arising in connection with same; and they shall reduce their findings to writing which shall be filed with the clerk of said township, who shall record it in full in his book of records of said township, and said finding and decision shall be final unless appealed therefrom as hereinafter provided for.

Trustees may direct construction.

SEC. 4. Wherever any water course or natural drainage line crosses the boundary line between two adjoining land owners and both parties desire to drain the land along such water course or natural drainage line, but are unable to agree upon the conditions as to the juncture or connection of the lines of tile or other drainage at the boundary line aforesaid, then and in such case the township trustees shall have full authority to hear and determine all questions arising relative thereto between such land owners and to render such judgment thereupon as shall to them seem just.

Disagreement of owners.

SEC. 5. Any person shall have the right to go upon any public highway to construct an outlet to a drain provided he shall leave the highway in as good condition as it was before the drain was constructed, to be determined by the Supervisor of highways in the district where the work is done.

Drains may be constructed along highways.

SEC. 6. That whenever any railroad crosses the land of any person or persons who desire to drain their land for any of the purposes set forth in Section one (1) of this Act, the party or parties desiring such drain or drains shall notify the railroad company by leaving a written notice with the nearest Station Agent, stating in such notice the starting point, route or termi-

Railroads crossing land, Co., how notified.

nation of such drain or drains, and if the railroad company refuse or neglect for the space of thirty days to dig across their right of way a drain of equal depth and size of the one dug by the party who wishes [wishes] to drain his land, then the party who desires to drain the land may proceed to dig such drain and the railroad company shall be liable for the cost of the construction of such drain, to be collected in any court having jurisdiction.

Appeal to Dis-
trict court.

SEC. 7. Either party may appeal to the District Court of the county from all the findings of the township trustees, within ten days after the findings have been filed with the clerk, and the party appealing shall cause a notice in writing of the taking of said appeal to be served upon the opposite party for the same time and in the same manner as now provided by law for service of original notice in the District Court; and if the appellant is the party petitioning for the drain, he must furnish a bond conditioned to pay all the costs of appeal assessed against him, said bond to be approved by the township clerk; and the matter shall be tried *denovo* in said Court; Provided that if the appellant does not recover a more favorable finding or judgment in the District Court than he did before the trustees, he shall pay all the costs of the appeal.

SEC. 8. In case of appeal the township clerk shall certify to the District Court a transcript of the proceedings before said trustees, which shall be filed in said court with the appeal bond, the party appealing paying for said transcript and the docketing of said appeal as in other cases, and upon appeal the party claiming damages shall be plaintiff and the applicant defendant.

Costs.

SEC. 9. The applicant shall pay the costs of the trustees clerk and serving of notices on the hearing before the trustees, and shall pay all damages awarded before entering on the construction of said tile or other drain through the lands of the other.

SEC. 10. In case any dispute shall arise as to repair of any tile or other underground drain the same shall be determined by said trustees in same manner as in the original construction of same.

Publication.

SEC. 11. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers printed at Des Moines Iowa.

Approved April 9, 1888.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 12 and *Des Moines Leader* April 11, 1888.

FRANK D. JACKSON, *Secretary of State.*