

**Taking effect.** SEC. 24. This act, being deemed by the General Assembly of immediate importance, shall take effect from and after its publication in the Iowa State Register and Des Moines Statesman, newspapers published in Des Moines, Iowa.

Approved, April 15, 1870.

I hereby certify that the foregoing act was published in *The Des Moines Daily Statesman*, April 25th, and in the *Daily Iowa State Register*, April 28, 1870.

ED WRIGHT, *Secretary of State.*

## CHAPTER 159.

### DRAINAGE ACT.

APRIL 15. AN ACT to Provide for the Draining of Land.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Iowa,* That any person owning or possessing any swamp, marsh, or wet land, who shall desire to drain the same, and when he shall deem it necessary, in order thereto, that a ditch or ditches should be opened through lands belonging to other persons, in case the owners of any such land shall refuse to permit the opening of such ditch, or ditches, through the same, or if the parties cannot agree upon the terms thereof, he may make application, in writing, to the township trustees of the township where such marsh or swamp lands shall be situated, to inquire and determine whether such marsh, swamp, or wet lands are a source of disease to the inhabitants, and whether the public health would be promoted by draining the same, and to inquire and determine whether such ditch or drain is necessary for the proper cultivation of the same, and whether the permanent assessed value of said lands will be increased by such drain. Said application shall be filed with the township clerk.

**SEC. 2.** Such application shall state through whose premises, if known, it is necessary for said ditch or ditches to pass, and shall also describe said lands. Ten days' notice shall be served upon the owners of said lands, in like manner as notices are required to be served in com-

Mode of procedure where owners desire to drain lands by opening ditches through adjoining property.

Application to tp. trustees.

Questions relative to public health and cultivation of lands to be inquired into.

What application shall state.

mencement of actions before justices of the peace, and said notice shall state at what time said application will be filed, and in case the owner of any [of] said land shall be unknown to the applicant, or a non-resident of the State or county, then three written notices shall be posted for ten days, in three public places in the neighborhood of the said land, and in the township in which it is situated.

Notice to be served.

On non-residents to be posted.

SEC. 3. Upon the filing of said application, the trustees shall agree upon a time when they will hear and determine upon said application, and also shall agree upon the place of their meeting. They shall give five days' notice of such time and place of meeting to all persons interested, by posting up three written notices thereof, in three public places in said township. And, upon the day set for hearing said application, said trustees shall, (or if any of the said township trustees should not be present, the trustee or trustees present shall) have power to hear and determine the matters contained in said application, or such trustee or trustees may adjourn the hearing thereof not more than ten days. And, upon the final hearing, said trustee or trustees, shall determine whether it is necessary to pass through any of said land; and, if they find it necessary, they shall also determine the direction in which said drain shall run, and the depth and width thereof, as near as may be and said trustees may employ the county surveyor to assist them if necessary, the fees of the surveyor being paid in the same manner as the other costs of this proceeding.

Trustees to give notice of meeting

Hearing: powers of trust. es.

Determination.

Co. surveyor.

Construction of drain, on payment of damages

SEC. 4. The person or persons making the application for the drain, may, under the order of the trustees, enter upon the premises through which said drain is located and construct the same in accordance with said specifications, upon the payment of the damages as hereinafter provided.

Assessments of damages.

SEC. 5. If the trustees shall be of the opinion that the drain will be of damage to the land through which it is to pass, then they shall assess the amount of damage to be paid to the owner thereof, and after payment of the amount so assessed, the person or persons making the application may enter upon said land and construct the same, and, if no damages be assessed, then the applicant shall have full power to enter upon the land through which said drain passes, with the necessary implements to accomplish said work.

Applicant may construct drain; where.

Decision to be filed.

SEC. 6. The trustees, after having decided in favor of, or against said application, shall reduce their decision to writing, and file the same with the township clerk.

Appeal to the circuit court.

SEC. 7. Either party, feeling aggrieved by the decision of the trustees in the assessment of damages, may appeal to the circuit court of the county in which the land is situated, and the said court may hear and determine in all matters relating to said assessment; but so much of the decision of said trustees as relates to the location, width, and depth of said drain, shall be final. An appeal-bond shall be required as in cases of appeal from justices of the peace, and the same shall be filed with the township clerk, who shall approve it, and immediately thereafter shall certify all the original papers to the clerk of the circuit court.

Trustee's decision as to drain final.

Appeal: bond.

Trustees to keep drain in repair.

SEC. 8. After said drain is completed, it shall be kept in repair under the direction of the township trustees, and, when applied to in writing by any person owning land through which such drain shall run, said trustees shall examine the same and may make such orders in regard to the repair thereof and cleansing the same, as they may deem just and equitable, but they shall not be empowered to order any person to repair or cleanse the same, except the owners of land through which the drain runs.

Pay of officers.

SEC. 9. The township trustees shall receive for their duties under this act, the sum of one dollar and fifty cents per day, and the township clerk shall receive for filing each application the sum of fifty cents. The surveyor shall receive the fees prescribed by law for like duties performed by him. The trustees shall make such orders in regard to the payment of costs as they may think just, and they may require their costs to be paid in advance, in the first instance, by the person making the application.

Payment of costs.

Bridging of highways.

SEC. 10. If said drain shall cross a highway, it shall be bridged at the expense of the applicant or applicants.

Persons obstructing or injuring ditch liable for double damages; for second offense treble.

SEC. 11. Any person who shall dam up, obstruct, or in any way injure any ditch or ditches so opened, shall be liable to pay to the person owning or possessing the swamp, marsh, or other low land for the draining of which such ditch or ditches shall have been opened, double the damages that shall be assessed by the jury for such injury; and, in case of a second or other subsequent offense by the same person, treble such damages.

1862: ch. 70 repealed.

SEC. 12. Chapter 70 of the acts of the Ninth General Assembly is hereby repealed.

Taking effect.

SEC. 13. This act shall take effect from and after its publication in the Iowa State Register and Des Moines

Bulletin, daily papers published in the city of Des Moines, Iowa.

Approved, April 15, 1870.

I hereby certify that the foregoing act was published in the *Daily Iowa State Register*, April 28, and in the *Des Moines Daily Bulletin*, April 29, 1870.

ED WRIGHT, *Secretary of State*.

## CHAPTER 160.

### CONVEYANCES MADE IN OTHER STATES.

AN ACT Relating to the Acknowledgment and Recording of Deeds in certain Cases, and Rendering Valid the Acknowledgment of Deeds and Instruments in Writing. APRIL 15.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa*, That all deeds and conveyances of lands, tenements, and hereditaments, lying and being within this State, heretofore executed, and which said deeds and conveyances have been acknowledged, or proved, according to and in compliance with the laws and usages of the State, territory, or country in which such deeds and conveyances were acknowledged and proven, are hereby declared effectual and valid in law, to all intents and purposes, as though the same acknowledgments had been taken or proof of execution made within this State, and in pursuance to the acts and laws thereof; and such deeds, so acknowledged or proved as aforesaid, may be admitted to be recorded in the respective counties in which such lands, tenements, or hereditaments do, or may be [lie], anything in the acts and laws of this State to the contrary thereof notwithstanding: *Provided*, That all deeds and conveyances of lands, tenements, and hereditaments situated within this State, which have been acknowledged or proved in any other State, territory, or country, according to and in compliance with the laws and usages of such State, territory, or country, and which deeds or conveyances have been recorded within this State, be [and] the same are hereby confirmed and declared effectual and valid in law, to all intents and purposes, as though the said deeds or conveyances so acknowledged or proved and

Conveyances of property in Iowa heretofore made in other States, according to their laws made valid.

Admitted to record.

Provido: record confirmed.