

CHAPTER 122.

[H. B. No. 327—Wiley.]

DISSOLUTION OF MARRIAGE.

AN ACT to Amend and Re-enact Section 4398 of the Compiled Laws of North Dakota for the Year 1913, the Same being Section 4067 of the Revised Codes of 1905, Relating to the Dissolution of Marriage.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 4398 of the Compiled Laws of North Dakota for the year 1913, the same being Section 4067 of the Revised Codes of 1905, be amended so as to read as follows:

§ 4398: TERM OF RESIDENCE.] A divorce must not be granted unless the plaintiff has in good faith been a resident of the state for twelve months next preceding the commencement of the action and is either a citizen of the United States or has declared his intention to become such or is an Indian. *Provided*, however, that where the defendant is an Indian a copy of the summons and complaint in such divorce action shall be served upon the superintendent of the reservation on which the defendant resides in like manner as upon the defendant.

§ 2. REPEAL.] All Acts and parts of Acts in conflict with this Act are hereby expressly repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is no definite provision of law permitting an Indian who has not become a citizen of the United States to procure a divorce, therefore, this Act shall take effect and be in force from and after its passage and approval.

Approved, March 5, 1915.

DRAINS

CHAPTER 123.

[H. B. No. 148—Myhre.]

ESTABLISHMENT OF DRAINS.

AN ACT to Amend Section 2465 of the Compiled Laws of the State of North Dakota for the Year 1913, Relating to Drains, the Establishment Thereof, and Appeals Therefrom.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2465 of the Compiled Laws of the State of North Dakota for the year 1913 be amended to read as follows:

§ 2465. If upon the examination by the Board of Drain Com-

missioners before the survey has been made, or if upon the hearing upon the petition or upon the trial in the district court it shall appear that there was not sufficient cause for making such petition, or that the proposed drain would cost more than the amount of benefit to be derived therefrom, the Board of Drain Commissioners shall deny the petition, and the petitioners shall be jointly and severally liable to such board for all costs and expenses incurred in the proceedings, to be recovered by such board by action. If it shall appear that there was sufficient cause for the making of such petition and that the proposed drain will not cost more than the amount of the benefits to be derived therefrom the Board of Drain Commissioners shall thereupon make an order establishing the drain, accurately describing it, and give the same a name by which it shall be recorded and indexed.

Provided, that any person whose land is assessed or may be assessed for the construction of a drain, under the provisions of this Chapter, shall have the right to appeal to the district court from the order of the Board of Drain Commissioners establishing the drain. Such appeal shall be taken and perfected within thirty days after the order establishing the drain is filed. The appellant must file with the Clerk of said Court and serve upon any member of said Board of Drain Commissioners a notice of appeal, and give an undertaking to be approved by said Clerk of the District Court in the sum of two hundred fifty dollars for the payment of the costs in the event that the appellant is unsuccessful in the district court. Such undertaking shall run in favor of the county in which the drain is located, and if located in more than one county it shall run in the name of either of the counties in which the drain is located. The judge shall hear said appeal not less than ten or more than thirty days after the filing of said appeal with the clerk, the day of hearing to be fixed by the court. The case shall be tried in all respects as a court case without a jury, and costs shall be allowed and taxed as costs are now taxed in said courts in civil actions and upon like notice. Upon said appeal being perfected as hereinbefore provided, the district court shall have authority upon such hearing to try and determine the question as to whether there was, in the first instance, sufficient cause for making the petition for the establishment of the drain, and whether the proposed drain will cost more than the amount of benefits to be derived therefrom.

Provided, further, that the right of appeal as herein given shall apply to drains already established where the construction of such drain has not already actually commenced, *provided* such appeal is taken and perfected within sixty days after the passage and approval of this Act.

Whereas, there is no adequate law now in force authorizing an appeal to the district court from an order establishing a drain and, as a consequence, an emergency exists, therefore this Act shall

be enforced and take effect from and after its passage and approval.
Approved, March 3, 1915.

CHAPTER 124.

[H. B. No. 355—Ness.]

PERMITTING CIVIL TOWNSHIPS TO BUILD DRAINS.

AN ACT Entitled, "An Act to Permit Townships Through their Board of Supervisors to Build Drains Within the Township and Outlets Therefor Without the Township, and to Provide the Manner of Assessing the Cost Thereof and Provide for its Payment."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Whenever six resident freeholders of any organized township shall petition in writing the board of supervisors of any organized township to construct a drainage ditch within the township for the drainage of agricultural lands, or to construct a drainage ditch without the township as an outlet for road drainage ditches within the township, or both a ditch within the township and such outlet without the township, which petition shall state the general course of such ditch, it shall be the duty of such board to call a special township meeting of the people of the township, as provided for by Sections 3139 and 3140, Compiled Laws of North Dakota, 1913, for the purpose of considering the advisability of constructing such ditch.

§ 2. If at such meeting it is made to appear that such ditch is necessary and desirable and that the same will not cost more than three hundred dollars, the question shall be submitted to a vote of the voters present, whether such ditch shall be constructed by the township at a cost not to exceed three hundred dollars, and if a majority of such votes shall be in favor of the construction thereof it shall be the duty of the supervisors to proceed with all reasonable dispatch to have the same constructed and the cost thereof shall be paid out of the funds of the township.

§ 3. If it appears probable that such proposed ditch will cost more than three hundred dollars, or if a majority of the voters present shall not vote in favor of its construction, then the board of supervisors shall proceed as follows, to-wit: They shall require the petitioner to enter into a bond to the township, to be approved by the board, to pay all costs of surveys and preliminary examination by the board of the route of said proposed ditch in the event it shall be determined that such ditch will not be of more benefit than its cost.

The board must, upon the giving of such bond, proceed to inspect the proposed route and procure some competent person to make an estimate of its cost, and it shall then determine whether

the benefits to accrue from the drain exceed the cost, and if so determined it shall then be its duty to determine what lands will be benefited by the construction and the percentage of such benefit to the several pieces. A list of the benefits so found by the board stated in dollars and cents as to each of the several pieces shall then be made up plainly typewritten and posted in five public places in the township, accompanied by a notice that at a time therein stated, not less than ten days from the posting of such notices, the board will meet and review the fixing of such benefits and at such meeting any person feeling himself aggrieved may appear and offer reasons why the assessment of benefits should be reduced as to any piece of land, and the board shall then make such corrections and changes in such statement of benefits as the facts shall warrant, all of which proceedings shall be entered in the minutes of the township meeting kept by the clerk thereof. The record so entered shall show the amount of benefits charged against each piece of land affected and the amount so charged shall become a lien on the several pieces. It shall be the duty of the town clerk to certify the amount of such assessment against each piece of land to the County Auditor, who shall spread the same as a special assessment against the several pieces of land.

§ 4. The board of supervisors shall thereupon proceed as soon as practicable to have such ditches constructed, and it may either let a contract therefor or have the work performed by day labor under its supervision.

§ 5. No ditch shall be constructed under this Act that shall cost more than eight hundred dollars.

§ 6. The board of supervisors shall have authority to appropriate from the general fund of the township an amount not to exceed one hundred fifty dollars to aid in the construction of such ditch if in its judgment there is a general benefit to the property and roads of the township, as well as to the lands assessed, and it may also cause road ditches to be opened and connected with such ditch.

§ 7. In the construction of an outlet ditch under this Act the board may enter upon and deepen and improve any road ditch in existence, or construct a road ditch on any line of road through any other township, but if it does so it must so dispose of the dirt placed in the road as is consistent with the ordinary road work in the community, and leave such road in as good condition for travel as is consistent with the placing of new dirt thereon.

§ 8. EMERGENCY.] Whereas, an emergency exists in that no power now exists with townships to build drainage ditches, an emergency is declared to exist and this Act shall go into effect immediately upon its approval by the Governor.

Approved, March 12, 1915.