

§ 400. **AFFIRMATIVE PROOF REQUIRED.]** No divorce can be granted, except at regular term time in the county in which the action is brought or to which the place of trial is changed by order of the court, or upon the default of the defendant, or upon the uncorroborated statement, admission or testimony of the parties, or upon any statement or finding of fact made by a referee, but the court must in addition thereto require proof of the facts alleged. And all divorce actions must be filed in the office of the Clerk of Court of the proper county and by the clerk placed upon the court calendar upon receiving the regular filing fees as though issue had been joined therein.

Approved March 9, 1921.

DRAINS

CHAPTER 58.

(H. B. No. 67.—Johnson of Sargent.)

DRAINS, HOW ESTABLISHED, COMMISSIONERS.

An Act to Amend and Re-enact Sections 2462, 2463, 2466, 2487, 2488, 2489, 2490, Compiled Laws of 1913, Relating to Drains.

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

§ 1. That Section 2462 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2462. **BOARD OF DRAIN COMMISSIONERS, HOW APPOINTED.]** The board of county commissioners of any organized county in this State shall have power and is authorized at any meeting of the board by a majority vote of all the members, upon its own motion or on the petition of any person interested, to appoint three freeholders of the county as a board of drain commissioners of such county, one of whom shall hold office for one year, one for two years and one for three years, and thereafter each of said drainage commissioners shall hold office for three years, and until his successor is appointed and qualified. The board of county commissioners may remove any or all of such drain commissioners, and in case of a vacancy may fill the same by appointment. The board of county commissioners shall provide an office for said board of drain commissioners at the county seat suitable for its use and the keeping of its records, and shall provide suitable record books for its use.

§ 2. Section 2463 of the Compiled Laws of North Dakota of 1913 is hereby amended and re-enacted to read as follows:

§ 2463. OATH. BOND. ORGANIZATION. LEGAL ADVICE.] Any person appointed as a member of the drain commissioners shall within ten days after his appointment take, subscribe and file in the office of the county auditor an oath faithfully to perform the duties of a drain commissioner under the law, and within the same time make, execute and file in the auditor's office a bond to the county with sureties to be approved by the auditor in such sum as shall be ordered by the board of county commissioners, conditioned for the faithful discharge of his duties as drain commissioner. The members of the drainage board shall organize by electing from their number a chairman, and also a secretary whose compensation shall be fixed by the board of drain commissioners; and, when necessary, name and appoint an assistant secretary; they shall keep an office at the county seat, and shall keep a record of their acts and proceedings and a separate record of the proceedings relating to each separate drain, all of which shall be open for public inspection and such records shall have the same force and effect as other public records. Two members of said board shall at all times constitute a quorum for the transaction of business. Said board may, when it is necessary, employ a clerk and fix his compensation. The state's attorney of each county shall, so far as his other duties will permit, act as the legal advisor of the board. The board may, however, employ other counsel to advise and represent it in its proceedings.

§ 3. That Section 2464 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2464. HOW ESTABLISHED.] A petition for the construction of a drain may be made in writing to the board of drain commissioners which petition shall designate the starting point and terminus and general course of the proposed drain. If among the leading purposes of the proposed drain are benefits to the health, convenience or welfare of the people of any city or other municipality, the petition shall be signed by a sufficient number of the citizens of such municipality or municipalities to satisfy the board of drain commissioners that there is a public demand for such drain. The petition shall be signed by at least six freeholders whose property shall be affected by the proposed drain. Upon the presentation of a petition as hereinbefore provided and filing of the same, the board of drain commissioners shall, personally, as soon as practicable, proceed to examine the line of the proposed drain, and if in its opinion it is necessary for the public good, it shall enter a resolution to that effect, and shall also enter a resolution designating a competent surveyor who shall survey the line thereof and establish the commencement and terminus and determine the route, width, length and depth thereof.

Provided, that the board of drain commissioners shall require a bond from the petitioners in a sum sufficient to pay all expenses of the surveys and of the drainage commissioners if it should appear after

the surveyor's report is filed, that the proposed drain would cost more than the amount of the benefit to be derived therefrom, or if two-thirds of the land owners whose lands are subject to assessment for the construction of the proposed drain petition the board of drain commissioners to have further proceedings discontinued, as hereinafter provided. For the purpose of making examinations or surveys the board of drain commissioners, surveyors and their employes may enter upon any land traversed by any such proposed drain or upon other lands when necessary. Such surveyor shall prepare profiles, plans and specifications of the proposed drain, and estimate of the cost thereof and a map or plat of the lands to be drained in duplicate, showing the regular sub-divisions thereof, one copy of which shall be filed in the office of the county auditor in the county in which the drain is proposed to be constructed and the other with the board of drain commissioners, subject to inspection. In locating a drain a board of drain commissioners may, under the advice of the surveyor, vary from the lines described in the petition as it seems best. When the line proposed is along highways already established the drain shall be located at a sufficient distance from the center of such highway to permit a good road along the central line thereof. When the length of the line described in the petition does not give sufficient fall to drain the land sought to be drained, the board of drain commissioners may extend the drain below the outlet named in the petition far enough to obtain a sufficient fall and outlet. Drains shall as far as practicable be located on dividing lines between sections or regular sub-divisions thereof, but the general utility of the drain must not be sacrificed to avoid crossing any tract of land in such direction as the board of drain commissioners find advisable. Upon the filing of the surveyor's report the board of drain commissioners shall fix a date and public place for hearing objections to the petitions, and such place for hearing shall be located at some point in the vicinity of the land which will be effected by such drain and that will be the most convenient point for the majority of the land owners affected by the proposed drain to attend. At least ten days' notice of such hearing shall be given by causing five notices to be posted along the line of the proposed drain at such points as will be likely, in the opinion of the board, to secure the greatest publicity, and in addition a notice shall be sent by registered mail to the last known address of each and every owner of land which may be affected by the proposed drain. Notices of this hearing shall contain a copy of the petition and a statement of the date of filing of the surveyor's report and the date when the board will act upon the petition, and must be signed by the members of the board or a majority thereof. All persons, whose land may be affected by any such drain, may appear before the board of drain commissioners and fully express their opinion and offer evidence upon the matters pertaining thereto. Should two-thirds of the land owners, whose land is subject to assessment for

the construction of the proposed drain, believe that the benefits to be derived are not equal to the expense of the construction, they may petition the board of drain commissioners to have further proceedings discontinued, whereupon the said board shall by resolution order further proceedings discontinued.

§ 4. That Section 2466 of the Compiled Laws of the State of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 2466. RIGHT OF WAY.] The right of way for the construction of any proposed drain, if not conveyed to the county by the owner, may be acquired in such manner as may now or hereafter be prescribed by law, and where lands assessed for drainage benefits are not contiguous to such drain, access thereto over the land of others may be acquired in the same manner. Such right of way, when acquired, shall be the property of the county.

§ 5. That Section 2487 of the Compiled Laws of the State of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 2487. RULES AND REGULATIONS.] The board of drain commissioners of any county may make rules and regulations on the subject of drainage within such county, as it may deem proper, not inconsistent with the provisions of this chapter and especially with regard to clearing out and keeping clear the channels of streams and the construction and maintenance of dams thereupon, with reference to their capacity for drainage and may require of the owners of such dams reasonable service in cleaning and keeping such streams clear as consideration for the right to erect dams thereupon.

§ 6. Section 2488 of the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 2488. LIABILITY OF DRAIN COMMISSIONER.] Each board of drain commissioners shall make a report to the board of county commissioners of all drain begun, in process of construction or finished and shall also render a full account of all moneys which shall come into its hands; and every drain commissioner shall be liable on his bond for any misapplication of money coming into his hands as such commissioner. The report required by this section, shall include an itemized statement of all expenses and warrants drawn on account of each and every drain; the books, records and accounts of the board of drain commissioners shall at all times be subject to the inspection, audit and investigation of the board of county commissioners.

§ 7. That Section 2489 of the Compiled Laws of the State of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 2489. COMPENSATION OF PUBLISHERS.] Publishers of newspapers shall receive for publishing legal notices and furnishing evidence

of such publication the fees prescribed by law for legal advertisements.

§ 8. That Section 2490 of the Compiled Laws of the State of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 2490. COMPENSATION OF COMMISSIONERS.] The drain commissioners shall receive for their services five dollars per day for the time actually spent by them in the performance of the duties of their office; which shall be chargeable to the drain or drains on which the time was spent, and actual necessary expenses when away from home; provided, the said drain commissioners shall render an itemized and verified statement showing the date or dates when their services were rendered, and not more than the compensation for one day shall be allowed to them for services rendered in any one calendar day of twenty-four hours.

§ 9. EMERGENCY.] Whereas there is an emergency, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1921.

CHAPTER 59.

(H. B. No. 113.—Boyd.)

DRAINAGE TAX.

An Act to Amend and Re-enact Section 2495 of the Compiled Laws of the State of North Dakota for the year 1913, relating to Levy of Taxes for Interest for Drainage Purposes and Creating Sinking Fund.

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

§ 1. AMENDMENT.] That Section 2495 of the Compiled Laws of the State of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 2495. LEVY OF TAX FOR INTEREST. SINKING FUND.] The Board of County Commissioners shall in each year at the time of levying the taxes, levy upon the property liable to taxation on account of the location and construction of any drain a tax sufficient to pay the annual interest on any bonds or warrants which may have been issued for the purpose of locating and constructing the drain. Provided that this section shall not apply to lands upon which payment has been made into the county treasury for the full amount of the assessment as provided in Section 2494 of the Compiled Laws of 1913. Separate sinking funds shall be provided for each separate drain for the construction of which bonds shall have been issued, and no funds

in any such sinking fund shall be applied to any other purpose than the payment of the bonds for the payment of which such fund was created. No county shall be liable for the payment of any bonds issued under the provisions of this Chapter, but such bonds shall be paid only out of the sinking funds created as in this Chapter provided.

Approved March 9, 1921.

EGGS

CHAPTER 60.

(H. B. No. 81.—Oscar Oberg.)

EGGS.

An Act to establish a uniform egg law, for regulating and preventing the sale of eggs unfit as articles of human food, requiring eggs to be candled, requiring a license for dealers in eggs and establishing a penalty for violation of this Act.

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

§ 1. EGGS, SALE UNLAWFUL, WHEN.] It shall be unlawful for any person, firm or corporation to sell, offer or expose for sale, or to traffic in, eggs which are unfit for human food. For the purpose of this act, eggs shall be deemed unfit for human food if they consist in whole or in part of a filthy, decomposed or putrid substance.

§ 2. EGGS, UNLAWFUL TO USE, WHEN.] It shall be unlawful for any person, firm or corporation to use eggs that are unfit for food as defined in section one in the preparation or manufacture of food for public consumption; and there shall be no delivery, sale, purchase or acceptance of such eggs in or at any establishment where food products are prepared or manufactured.

§ 3. EGGS, COLD STORAGE.] It shall be unlawful for any person, firm, or corporation to advertise for sale, offer for sale or to sell, as and for fresh eggs, any eggs which have been held in cold storage for thirty days or any eggs which have been pickled in brine or in water-glass or in lime water or which have been preserved in any manner whatsoever. For the purpose of this act and in all dealings having to do with the purchase and sale of eggs, the word "eggs," when used without further description or qualification, shall in every instance be understood to mean fresh, sweet eggs. If case eggs which have been held in cold storage for a period of thirty days or longer are offered