

one hundred dollars, or both in the discretion of the court.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.
Approved April 24, 1891.

No. 251, S.]

[Published May 13, 1891.

CHAPTER 432.

AN ACT relating to the drainage of swamp, marsh and wet lands, and amendatory of sections 1, 3, 4, 5, 6, 8 and 9, of chapter 495, of the laws of 1887.

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

SECTION 1. Amend section 1, of chapter 495, of the laws of 1887, by inserting the words "or open ditch," after the word "drain," at the end of the second line of said section, so that section 1 shall read as follows: Section 1. Whenever any person shall desire to construct any tile or other underground drain or open ditch through the land of another for agricultural and sanitary purposes, 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 town 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 town clerk shall forthwith notify the supervisors of the said town, of said application, who shall fix a time and place for the hearing of the same, which time shall not be more than twenty days distant, and they shall cause said clerk to notify the applicant and the other land owner or owners, of the time and place of said hearing, at least before the time fixed for hearing the same; which notice shall be in writing, signed by said clerk, and shall be served on said applicant and land owner or owners, if within said county, and if not, then upon his agent for

Amends chapter 495, laws of 1887.

Drains, how constructed through lands of another.

Application, how made.

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 parties nor agents are residents within said county, then the same shall be served by posting written notices in the public places of said township, one of which shall be upon said land, at least ten days before said hearing. Amend section 3 of said chapter, by inserting the words, "or open ditch" after the word "drain" in the third line of said section, so that section 3 shall read as follows: Section 3. Said supervisors may fix the point or points of entrance and exit or outlet of said title or other underground drain or open ditch, 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 questions arising therewith, and they shall reduce their findings to writing, which shall be filed with the town clerk, who shall record it in his book of records of said town, and said findings and decision shall be final, except as to the amount of damages, if any, which shall be awarded. Amend section 4, by inserting the words, "open ditch," after the word "tile," in the seventh line of said section, so that section 4 shall read as follows: Section 4. Whenever 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, open ditch or other drainage at the boundary line aforesaid, then and in such case the supervisors 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 seem to them just. Amend section 5 of said act by inserting the words "or open ditch" after the word "drain" in the third line of said section and after the word "drain" in the fourth line, so that said section 5 shall read as follows: Section 5. Any person shall have a right to go upon any public highway to construct an out-

Supervisors
may fix course
of drains, etc.

Same when
owners dis-
agree.

Public highway
may be used.

let to a drain, or open ditch, provided that he shall leave the highway in as good condition as it was before the drain or open ditch was constructed, to be determined by the overseer of highways in the district where the work is done. Amend section 6 by inserting the words "or open ditch," after the word "tile" in the ninth line of said section, so that section 6 shall read as follows: Section 6. Either party may appeal to the circuit court of the county from so much of said finding and order as relates to the amount of damages which may be awarded, within the same time and in the same manner, and under the same conditions as is now provided by law in cases of appeal from assessment of damages on location of highways; provided, however, that said appeal shall not delay the construction of said tile or other underground drain or open ditch if the applicant shall in case the land owner or owners appeal, deposit with the town clerk for the use of said land owner the amount of damages awarded, by the supervisors, and in case the applicant appeals that he shall first file the appeal bond provided by law. Amend section 8, of said act, by inserting the words "or open ditch," after the word "drain," in the sixth line of said section, so that section 8 shall read as follows: Section 8. The applicant shall pay the costs of the town clerk in serving the notices and filing papers, and in case no appeal is taken, shall pay all damages awarded before entering on the construction of said drain or open ditch through the lands of another. Amend section 9, of said act by inserting the words, "or open ditch," so that section 9 shall read as follows: Section 9. In case any dispute shall arise as to the repair of any such tile or other underground drain or open ditch, the same shall be determined by said supervisors in the same manner as in the original construction of the same.

Appeal from
finding of
supervisors.

Applicant to
pay cost.

Repairs, how
made in case of
dispute.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved April 24, 1891.