

Townships.

CHAPTER 59.

AN ACT providing for the Organization of Civil Townships and the Government thereof.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. SPECIAL ELECTION TO ADOPT TOWNSHIP GOVERNMENT.] Whenever a petition from fifty legal voters in any county is presented to the county commissioners of any county, they shall submit, at a special election, the question whether the system of township government as hereinafter provided, shall be adopted in said county, and at such special election there shall be written or printed on the ballots the words, "For township organization," or "Against township organization."

§ 2. DUTY OF COUNTY BOARD WHEN MAJORITY VOTE FAVORS TOWNSHIP GOVERNMENT.] If a majority of the votes cast at such election shall be in favor of township organization, the board of county commissioners shall immediately proceed to divide the county into civil townships, fix and determine the boundaries thereof, and number the same, and in so doing shall have regard for natural boundaries, and may at any time thereafter alter and change the same: *Provided*, That the number of civil townships shall not exceed the number of congressional townships or fractional parts thereof greater than one-half, in any county.

§ 3. NAME OF TOWNSHIP.] At the first township meeting, which shall be on the day of the next general election, held under the provisions of this chapter, the electors of each township shall choose by ballot a name for their respective township to be substituted in lieu of the number fixed by the board, which shall be recognized by them and entered upon their records, after which such township shall be known and

designated in law by the name so elected, and should the elector of any township fail to choose a name as provided, the board shall select one, and so record it.

§ 4. COUNTY CLERK TO TRANSMIT PLAT OF COUNTY TO AUDITOR.] The county clerk shall, within thirty days after the first township election held under the provisions of this chapter, transmit to the territorial auditor a plat of the county showing the boundaries and name of each civil township therein, and shall record a copy of the same, together with all proceedings had or done under this act, in a book to be kept for that purpose.

§ 5. DUTY OF AUDITOR WHEN TWO TOWNSHIPS HAVE SAME NAME.] If the auditor, on comparing the report with those previously made from other counties, finds that any two or more townships have the same name, he shall transmit to the county last adopting the township organization, the name of the township to be altered, and the board of county commissioners shall at their next meeting thereafter adopt for such township some name different from those theretofore adopted, so that no two townships organized under the provisions of this chapter shall have the same name; and when such name is adopted the county clerk shall inform the auditor thereof, as before directed, and note the same in the county record.

§ 6. BOUNDARIES OF PRESENT TOWNSHIPS. WHAT OFFICERS NOT TO BE CHOSEN IN COUNTY.] The limits, boundaries and organization of every organized township shall remain as now established until otherwise provided by law; and in any county hereafter organized into civil townships under the provisions of this chapter, there shall be elected no county justices of the peace, constables or assessor, and all provisions of law relating to county government in conflict with the provisions of this chapter, shall not apply to each and every county so organized.

POWERS OF ELECTORS.

§ 7. TO ELECT OFFICERS.] The electors of each township shall have power at the annual election to elect such officers for the township as are by law required to be chosen, and shall be elected and named upon the same ballot of county, district and territorial officers, at the general election.

§ 8. OFFICERS TO BE ELECTED.] There shall be elected the following township officers:

Three supervisors;
One clerk;
One treasurer;
One assessor;
Two justices of the peace;
Two constables;
One or more pound masters, and
One overseer of highways,

for each road district in the township, who shall be residents of the township for which they were elected, and shall hold their office for the term of one year except justices of the peace and constables, who shall hold their office for the term of two years, and until their successors are elected and qualified.

§ 9. ELECTION BOARD TO MAKE SEPARATE RETURN.] When the votes cast at the general election shall have been canvassed, and the number received by each person voted for, for each office, counted and ascertained, as provided in the general election law, the election board shall, in addition to the return to the county clerk therein provided, make a separate return in like manner and form to the township clerk of the persons voted for, and the votes for each person cast for each township office.

§ 10. TOWN CLERK TO GIVE CERTIFICATE. PROCEEDINGS IN CASE OF TIE.] The township clerk shall, within ten days after the canvass of the votes, as provided in the next section, transmit to each person elected to any office in the township a certificate of his election: *Provided*, That in case of a tie vote for any office it shall be determined by the township clerk in the same manner as provided for settling tie votes in county officers.

§ 11. RETURNS OF ELECTION—HOW CANVASSED.] On the second Tuesday after the election, the clerk of every township shall meet, together with the chairman of the township board, and one of the justices of the peace of the township, or these failing to meet with said clerk, he may take to his assistance any other two elective township officers and proceed to canvass the returns mentioned in section 9 of this chapter, and make an abstract thereof, which shall be signed by the officers making the same, and filed in the office of the township clerk with the other records of said office.

§ 12. OFFICERS—HOW TO QUALIFY.] All township officers shall qualify by oath of office, in writing, which oath shall be filed with the township clerk and within the period required for county officers to qualify; said oath may be taken and subscribed before the township clerk or any other officer legally qualified to administer oaths, without fee or compensation, who shall certify thereto, with the date of taking the same.

§ 13. BOND OF CERTAIN OFFICERS.] Township treasurers, clerks, assessors, overseers of highways, justices of the peace, and constables, shall before entering upon and discharging the duties of the office, give bond conditioned that they will faithfully and impartially discharge the duties of their office (naming it fully) and render a true account of all moneys, credits, accounts and property of any kind that shall come into their hands as such officer, and pay over and deliver the same according to law, which bond shall be approved by the chairman of the board of supervisors of the township, and shall be given to the county and filed in the office of the clerk of the district court of the county.

§ 14. OATH OF TOWNSHIP OFFICER.] Every township officer who is required to give bond shall take and subscribe on the back of his bond, or a paper attached thereto, to be certified by the officer administering it, an oath that he will support the constitution of the United States and the act organizing this Territory, and to faithfully and impartially, to the best of his knowledge and ability, perform all the duties of his office (naming it fully) as provided by the conditions of his bond written within.

§ 15. BONDS.] The bonds of township officers as mentioned in section 13 of this chapter, shall each be in a penal sum to be fixed by the board of county commissioners; but that of the justices of the peace shall not be in a less penal sum than three hundred dollars each; and those of constables shall not be in a less penal sum than two hundred dollars each; and the penalty of the bond shall be uniform within the county for officers of each class where there is more than one of a class, except township treasurers, which shall be in a penal sum double the amount of township taxes to be collected in each year.

§ 16. TERM OF OFFICE—WHEN TO COMMENCE.] The regular term of office for all township officers, when elected for a full term, shall commence on the first Monday of January next succeeding their election; but if the office to which he was elected be vacant at the time of election, even if he was not elected to fill a vacancy, he shall forthwith qualify and enter upon the duties of his office; and in newly organized townships the election board and clerks of election shall constitute the board of canvassers mentioned in section 11 of this chapter, and empowered and required to perform all the duties required of said officers therein mentioned.

§ 17. WHO TO BE JUDGES AND CLERKS OF ELECTION.] The township supervisors of each township shall be the judges of election for all elections held in the county, and if there shall be any vacancy in said board of judges, the electors present at the time of opening the polls on the morning of the election shall choose *viva voce* from the qualified electors of said township, so many judges as there shall be vacancies in such board. The township clerk shall be clerk of elections, and the board shall have power to appoint one of the qualified electors of such township to act as the other clerk of election, and the said board and clerks shall each receive the sum of two dollars for their services as such officers out of the treasury of their respective townships.

§ 18. OATH OF JUDGES AND CLERKS.] Every judge and clerk, or other person, as prescribed in the preceding section, shall, before they enter upon the duties of their office take and subscribe to the following oath: "I, A B, do solemnly swear (or affirm as the case may be) that I will perform the duties of judge (or clerk as the case may be) according to law and the [best] of my ability; that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same." The said election shall be conducted in the manner as prescribed in chapter 27 of the Political Code, entitled "Elections," so far as applicable and in conformity with this chapter.

§ 19. TOWNSHIP TO BE BODY CORPORATE.] Every civil township heretofore organized, or which may be organized under the provisions of this chapter, is a body corporate for civil and political purposes, and as such has power and authority to sue and be sued; to purchase and hold lands in its name

within its limits for the public use of its own inhabitants; to make such contracts, purchases and hold such personal property as may be necessary for the exercise of its corporate or administrative powers; to make such orders for the disposition or use of its corporate property as may be deemed conducive to the interest of its own inhabitants.

§ 20. WHAT POWERS TOWNSHIP CAN EXERCISE.] No civil township shall possess or exercise any corporate powers except such as are enumerated in this chapter, or are especially given by law, or necessary to the exercise of the power enumerated or granted.

§ 21. ACTIONS HOW BROUGHT. CONVEYANCES.] All actions or proceedings brought by or against a township in its corporate capacity, shall be in the name of the township, but all conveyance of lands made in any manner for the use and benefit of its inhabitants, has the same effect as if made to the township by name.

§ 22. POWERS OF BOARD OF SUPERVISORS.] The board of supervisors of each township shall have power:

1. To direct the institution or defense of actions in all controversies wherein such township is interested.

2. To levy a tax to raise such sums of money for the repair and construction of roads and bridges, and for other necessary township charges, as they may deem expedient.

§ 23. POWERS AND DUTIES.] The said board shall have charge of such affairs of the township as are not by law committed to other township officers, and which properly belongs to the duties of said board; and they shall have power to draw warrants on the township for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the township, and for all other moneys raised by the township to be disbursed for any other purpose, and shall have power to divide their township into road districts as they may deem proper.

§ 24. WHEN INCORPORATED TOWN IS INCLUDED IN TOWNSHIP.] Whenever any incorporated town which is laid out into streets is included within the limits of an organized township, the supervisors are authorized to cause improvements to be made in any street that may be needed as a highway, if the corpo-

rate authorities of such town neglect to make such improvements.

§ 25. SUPERVISORS HAVE POWER TO PROSECUTE.] The board of supervisors of any township shall have power to prosecute, in the name of the township, for any trespass committed upon any public enclosure or other property belonging to the township, and shall pay all moneys collected under this section to the township treasurer.

§ 26. QUORUM OF SUPERVISORS.] Any two of the supervisors constitute a quorum for the transaction of business or the performance of any duty required by law of the township supervisors, except when otherwise provided: *Provided*, That when the board are equally divided upon any question they shall defer a question until a meeting of the full board, and then the question shall be decided by a majority vote of the board.

§ 27. VACANCIES IN TOWNSHIP OFFICES.] All vacancies in township officers, except justices of the peace, shall be filled by appointment by the justices of the peace of the township, together with the board of supervisors, or a majority of them, by warrant under their hand; and if a vacancy occurs from any cause in the foregoing board of appointment, the remaining officers of such board shall fill any vacancy therein.

§ 28. ACCOUNTS.] The board of supervisors shall audit all accounts payable by said township, and if from any cause there be not three supervisors present to constitute said board, the chairman, and in his absence, either of the other supervisors may notify any one, or so many of the justices of the peace of the said township as will, together with the supervisors present, make a board of three; and the board so constituted shall have power to act as the township auditing board.

§ 29. WHEN BOARD TO MEET. SETTLEMENT OF ACCOUNTS.] The township board shall meet on the first Monday in January in each year, and at such other times as they may deem necessary and expedient, for the purpose of auditing and settling all charges against said township; and they shall state on each account the amount allowed by them; but no allowance shall be made upon any account which does not specifically

state each item of the same, and the nature thereof, and the township clerk shall keep a record of all accounts filed and audited, to enable the said board to settle and audit the accounts of the township treasurer; and when the account is allowed the said board shall draw a warrant on the treasurer of the township in favor of the person entitled thereto, which shall be signed by the chairman of the board and attested by the clerk.

§ 30. TOWNSHIP BOARD TO AUDIT ACCOUNTS.] The said township board shall also at their annual meeting in each year, examine and audit the accounts of the township treasurer for all moneys received and disbursed by him as such officer, and they shall in like manner audit accounts and settle with all other township officers, who are authorized by law to receive or disburse any money of the township by virtue of their office.

§ 31. TOWN ORDERS TO BE PAID BY TREASURER, AND TO BE RECEIVED FOR TAXES.] The amount of any account audited and allowed by the township board shall be paid by the township treasurer, on the order of said board, as provided in section 29 of this act, and all orders issued to any person by the township board for any sum due from the township shall be receivable in payment of township taxes in said town.

§ 32. TOWNSHIP BOARD TO LEVY TAX.] On the second Monday after the board of county commissioners have met and equalized the assessment in the county, the township board of supervisors shall meet with the township clerk and must levy the necessary tax for the current year; and if from any cause said board fail to meet at that time and make such levy, they may make such levy at any time thereafter, not less than thirty days previous to the time fixed by law for the tax list to be placed in the hands of the county treasurer.

§ 33. CLERK OF TOWN TO NOTIFY COUNTY CLERK OF RATE OF LEVY.] It shall be the duty of the township clerk, immediately after the township board of supervisors have made the levy of taxes, or within three days thereafter, to notify the county clerk of the amount levied, who shall enter the same on the county tax list, to be collected by the county treasurer as county taxes are collected.

§ 34. TOWN BOARD TO DETERMINE AMOUNT OF CERTAIN TAX.] The

township board of supervisors shall determine the amount of property-tax to be levied for highways, and shall levy the same, which shall not be less than one or more than ten mills on the dollar on the assessed valuation of the township; they shall also determine the amount of bridge tax necessary for the repair and construction of bridges in the township, and shall levy the same, which shall not be less than one nor more than five mills on the dollar on the assessed valuation of the township, and the said bridge tax when collected shall not be used for any other purpose than the repair and construction of bridges in the township. And that all organized townships shall be exempt from the payment of a general road tax for the support and keeping in repair the highways, which may be levied by the board of county commissioners or any other board, officer, or tribunal, other than the said board of township supervisors.

§ 35. COUNTY CLERK TO NOTIFY TOWN OF CHANGE OF HIGHWAY.] Whenever the board of county commissioners shall locate, vacate or change any highway in any organized township, their county clerk shall transmit to the township clerk in which such location, vacation, or change is made, a copy of the record thereof, who shall cause notice of such change to be given to the proper road overseer.

§ 36. COUNTY CLERK MUST FURNISH TO TOWN RECORD OF ALL HIGHWAYS.] The county clerk shall furnish each organized township in his county with a copy of the record of all the highways in said township, to be transmitted to the township clerk, who shall furnish each overseer of highways in his township with the records of all the roads in each road district respectively.

§ 37. THIS ACT HOW CONSTRUED RESPECTING HIGHWAYS.] Nothing in this act contained shall be so construed as to give power to any board or officer to locate, vacate or change any highway, other than the board of county commissioners. Neither shall it be so construed as to prevent the board of county commissioners from levying a general county bridge tax for the purpose of building and maintaining county bridges in their respective counties.

TOWNSHIP BOARD OF HEALTH.

§ 38. BOARD OF HEALTH.] The township supervisors shall

constitute a board of health, and within their respective townships shall have and exercise all the powers necessary for the preservation of the public health.

§ 39. TO ORDER REMOVAL OF NUISANCE.] Whenever any nuisance, source of filth or cause of sickness is found on private property, the board of health shall order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours; and if the owner or occupant neglects so to do he shall forfeit a sum not exceeding fifty dollars, to be recovered in the name of and for the use of the township.

§ 40. TO REMOVE NUISANCES IN CERTAIN CASES.] Whenever such owner or occupant shall not comply with such order of the board of health, said board may cause the said nuisance, source of filth or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the said owner or occupant, or by such other person as has caused or permitted the same.

§ 41. MAY ENTER BUILDING. IF REFUSED.] Whenever the board of health thinks it necessary for the preservation of the health of the inhabitants to enter any building or vessel in their town for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth or cause of sickness, and shall be refused such entry, any member of the board may make complaint under oath to a justice of the peace of his township, stating the facts in the case so far as he has knowledge thereof.

§ 42. JUSTICE TO ISSUE WARRANT—WHEN.] Such justice shall thereupon issue a warrant directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and being accompanied by two or more of the board of health, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth or cause of sickness complained of may be, and the same destroy, remove or prevent, under the direction of the members of such board of health.

§ 43. CARE OF PERSON INFECTED WITH CONTAGIOUS DISEASE.] When any person coming from abroad, to, or residing in any township within this Territory is infected, or lately has been infected with any contagious disease dangerous to the public health, the board of health of the township where such sick or infected person may be, may immediately cause him to be

removed to a separate house, if it can be done without danger to his health, and shall provide for him nurses and necessities which shall be at the charge of the person, his parents, guardian or master, if able, otherwise at the charge of the county in which such township is situated.

§ 44. SAME.] If such infected person cannot be removed without danger to his health, the board of health shall make provision as directed in the preceding section for such person in the house where he may be; and in such case they may cause the persons in the neighborhood to be removed, and may take such other measure as they may deem necessary for the safety of the inhabitants.

§ 45. WHEN BOARD TO PROVIDE HOSPITAL.] When a disease, dangerous to the public health breaks out in any town, the board shall immediately provide such hospital or place of reception for the sick and infected as is judged best for their accommodation and the safety of the inhabitants, which shall be subject to the regulations of the board; and the board may cause any sick or infected person to be removed thereto, unless his condition will not admit of such removal without danger to his health, in which case the house or place where he remains shall be considered as a hospital, and with all its inmates subject to the regulations of the board.

§ 46. CLERK TO PRESERVE TOWN RECORDS.] The township clerk shall have the custody of records, books and papers of the township when no other provision is made by law; and he shall duly file and safely keep and preserve all records, oaths and other papers required by law to be filed in his office.

§ 47. SHALL KEEP RECORD OF MEETINGS.] He shall record in the book of records of his township minutes of the proceedings of every meeting of the board of supervisors of the township, and he shall enter therein every order or direction by them made; and shall also file and preserve all accounts audited by the township board, and enter a statement thereof in such book of records.

§ 48. CLERK SHALL MAKE TAX LIST. The township clerk shall, within four weeks after the board of supervisors have levied the property tax, make out a tax list for each highway district in his township, which list shall be in numerical and

alphabetical order, having distinct columns for lands, town lots, and personal property, and carry out in a column the amount of the tax on each piece of land and town lot, and on the amount of personal property belonging to each individual; and the said list shall contain the names of all persons required to pay a poll tax; and to enable the township clerk to make out such tax lists, the township assessor shall furnish the township clerk as soon as the assessment has been equalized, with a correct copy of the assessment lists of said township for that year, which list shall be the basis of such tax list. The county clerk shall furnish the several township clerks of his county with printed blanks necessary to carry the provisions of this chapter into effect.

§ 49. CLERK TO DELIVER HIGHWAY TAX LIST TO ROAD SUPERVISOR.] The township clerk shall make an entry upon such tax list showing what it is, for what highway district, and for what year, and shall attach to the list his warrant under his hand in general terms, requiring the supervisor of such road district to collect the taxes therein charged as herein provided; and no informality in the above requirements shall render any proceedings for the collection of such taxes illegal. The clerk is required to cause such lists to be delivered to the proper road supervisors of his township and take his receipt therefor; and such list shall be full and sufficient authority for the road supervisor to collect all taxes therein charged against resident property holders in his district in the manner provided by law.

§ 50. COUNTY TREASURER TO PAY MONEYS TO TOWN TREASURERS.] The county treasurer shall, on the first Monday in April and October in each year, pay to the township treasurer all the highway and other township taxes belonging to his township which are at such times in his hands, taking the duplicate receipts of such township treasurer therefor, one of which shall be delivered by such treasurer, on or before the first Monday in May and November in each year, to the township clerk.

§ 51. DUTY OF TOWNSHIP TREASURER.] Every township treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided, at the expense of the town-

ship, for that purpose, and exhibit such account, together with his vouchers, to the township board at its annual meeting for adjustment; and he shall deliver all books and property belonging to his office, the balance of all moneys in his hands as such treasurer, to his successor in office on demand, after such successor has qualified according to law.

§ 52. FEES OF TOWNSHIP TREASURER.] The township treasurer shall be allowed and entitled to retain two per centum of all moneys paid into the township treasury, for receiving, safe keeping, and paying over the same according to law.

§ 53. ANNUAL STATEMENT OF TOWN TREASURER.] Each township treasurer shall make out and present to the township board, on the day of its annual meeting, a statement in writing of the moneys by him received into the township treasury from the county treasury, and from all other officers and persons on any account, and also of all moneys paid out by him as such treasurer, in which statement he shall set forth particularly from whom and on what account such moneys were received by him, with the amount received from each officer or person, and the date of receiving the same, also to whom and for what purpose any moneys have been paid out by him, with the amount and date of each payment. He shall state in such report the amount of moneys remaining in his hands as treasurer. Such report shall be filed by him in the office of the township clerk, and shall by such clerk be carefully preserved and recorded in the township record book.

§ 54. COUNTY BOARD TO PROVIDE ASSESSMENT NOTICES AND LISTS FOR TOWN ASSESSORS.] The board of county commissioners shall provide for the use of the township assessors suitable notices and blank forms for the listing and assessment of all property, and such instructions as shall be needful to secure full and uniform assessment and returns; and a list of all the entered lands in each separate township in the county subject to taxation.

§ 55. TOWN ASSESSORS—HOW GOVERNED.] The township assessors shall be governed by and make assessments and returns as provided in chapter 28 of the Political Code of 1877, and in conformity with the provisions of this chapter, and shall be paid for their services out of the township treasury.

OF OVERSEERS OF HIGHWAYS.

§ 56. COMMENCING WORK.] The overseer of highways of each road district or township shall, on receiving the tax list as provided in section 49 of this chapter, commence working the highways in his road district.

§ 57. WHO LIABLE TO ROAD TAX.] Every male citizen between the age of twenty-one and fifty years, shall be subject to a poll tax of one dollar and fifty cents, which must be paid in money or by one day's labor in each year on the public highway within his road district, at the time and place directed by the overseer of highways; and in case there is any person residing in any road district subject to a poll tax, whose name is not on the list as furnished by the township clerk, the overseer shall enroll his name and he shall be liable to labor on the roads at the same time and in the same manner that those originally enrolled on said list; but any person who has labored that year in any road district and has a receipt therefor, shall not be liable to perform such labor.

§ 58. SUPERVISOR TO ORDER OUT PERSONS LIABLE.] The overseer of highways must order out every person subject to road labor as aforesaid, between the first days of April and December, annually, to perform the work necessary on the public highways within their respective road districts.

§ 59. ROAD TAX—IN WHAT DISTRICT TO BE PAID.] Any road tax levied by the board of supervisors, in addition to the poll tax, may be worked out in the road district in which such person resides, when it is a personal tax, or tax on personal property; or, if on real property, then in the district where such property is situated, on which the tax is levied, at the rate, in all cases, of one dollar and fifty cents per day for a man, and three dollars for a man and team, and the receipt of the overseer for the amount worked out must be taken by the county treasurer in payment to that amount of said tax.

§ 60. OVERSEER OF HIGHWAY TO REMOVE OBSTRUCTIONS.] It shall be the duty of any overseer of highways, having personal knowledge of or on being notified in writing of any obstruction in the highway or public street in his district, to immediately remove or cause to be removed any such obstruction.

§ 61. PENALTY FOR REFUSING TO ACT AS OVERSEER.] No person shall be required to serve as overseer of highways who is exempt from performing labor on the highway, and if any person who is elected or appointed overseer of highways, having received notice thereof, shall fail to qualify, as required by law, unless prevented by sickness, he shall forfeit and pay the sum of ten dollars, and if he fail or refuse to pay the same, his successor in office shall collect the said amount by suit or otherwise, and pay the same into the township treasurer, and take his duplicate receipt therefor and file one with the township clerk.

§ 62. OVERSEER TO POST NOTICES.] The overseer of highways shall, within six days after receiving the tax list as mentioned in section 49, post up in three conspicuous places in the road district, written notices of the amount of highway tax assessed to each taxpayer in said district.

§ 63. ROAD TAX—WHERE EXPENDED.] The money collected on road and poll tax in any township, whether collected by the overseer or treasurer, shall be expended for highway purposes in the proper road district, and in no other.

§ 64. DIRECTING THE MANNER OF WORKING HIGHWAYS.] The overseer of highways in each road district shall give at least three days' notice of the day and place designated to work the highways, to all persons subject to work thereon, or who are charged with a highway and poll tax residing in his district, and all persons so notified must meet said overseer at such time and place with such tools, implements, and teams as the overseer may designate, and shall labor diligently under the direction of the overseer for eight hours each day; and if requested by the overseer, shall continue to work from day to day, as above stated, until he shall have worked out all the tax charged to him on the list of the overseer, at the rate as provided in section 59 of this chapter; and for such labor performed, the overseer shall give to the person a receipt, which shall be evidence of the payment of said tax to the amount specified in *in* the receipt.

§ 65. PENALTY FOR NEGLECTING TO PERFORM ROAD TAX.] Every person liable to perform labor on the highway, as provided by law, who shall fail or neglect to attend, either in person or

by satisfactory substitute, at the time and place appointed, with the required tools, implements or team, having had three days' notice thereof, or, having attended, shall spend his time in idleness, or disobey the overseer, or fail to furnish to said overseer, within five days thereafter, some satisfactory excuse for not so attending, shall forfeit and pay the sum of five dollars together with the amount of the taxes charged to him on the overseer's list, and the costs of collecting the same; and in case of failure to pay such forfeit within ten days, the overseer shall recover the same by action, in the name of the overseer, before any justice of the peace in the proper county or township, which money, when collected, shall belong to the road fund, and shall be expended on the public highway: *Provided*, That any person may, at his option, when notified to work, pay to the overseer the amount charged to such person for road and poll tax: *And provided further*, That no personal property shall be exempt from execution on judgments obtained under the provisions of this section.

§ 66. OVERSEER'S COMPENSATION.] The overseer of highways shall perform the same amount of labor as is required of an able bodied man, except when he is necessarily engaged in superintending the work, for which he shall be allowed the sum of two dollars per each day's labor, including the time necessarily spent in notifying the hands and making out his returns, which sum shall be paid out of the road fund, after deducting the amount of his own tax, upon the order of the chairman of the board of supervisors and township clerk.

§ 67. LIABILITY OF OVERSEER FOR UNSAFE HIGHWAY.] When notified in writing, that any bridge, or any portion of the highway is unsafe, the overseer shall be liable for all damages resulting from the unsafe or impassable condition of the highway or bridge, after allowing a reasonable time for repairing the same.

§ 68. POWER OF OVERSEER WHEN MAKING EXTRA REPAIRS.] For making such extraordinary repairs, the overseer may call out any or all the able bodied men of the district in which they are to be made, but not more than one day at any time without their consent, and persons so called out shall be entitled to receive a certificate from the overseer, certifying the number of days' labor performed, which certificate shall be re-

ceived in payment for highway tax for that or any succeeding year, at the rate per day as provided in section 59 of this chapter.

§ 69. LIABILITY FOR FAILURE.] If any able bodied man, who is duly summoned for any such purpose, fails to appear and labor diligently by himself or substitute, or send satisfactory excuse therefor, or pay the value of such work in money at any time before suit is brought, he is liable to a fine of five dollars, to be recovered by suit before any justice of the peace in the name of the overseer, and for the use of the road fund of the district.

§ 70. LIABILITY OF OVERSEER FOR NEGLIGENCE.] The overseer of highways shall keep the highways in as good condition as the funds at his disposal will permit, and any overseer failing to perform the duties required by this chapter shall forfeit and pay for the use of the highway fund of his district the sum of fifty dollars; the township clerk shall, in case of such failure or neglect, commence suit in his name for the collection of the same, before any justice of the peace in the proper county.

§ 71. ROAD SUPERVISOR'S REPORT.] On or before the first Monday of January of each year, the several road overseers shall each make a report to the board of township supervisors of his doings as such overseer during the preceding year, the amount of labor performed, the number of day's labor necessarily performed by himself in the discharge of his duties, and the said board shall thereupon cause a warrant to be drawn on the treasury of the township for the amount actually due him for such services, payable out of the moneys belonging to the road fund of the township.

BRIDGES.

§ 72. BRIDGES PART OF HIGHWAY.] Bridges erected or maintained by the public constitute a part of the public highway.

§ 73. PERSON DITCHING ACROSS HIGHWAY TO MAINTAIN BRIDGE.] Every person digging and making a ditch, drain or mill race across the public highway, shall, at his own expense, build, maintain and keep in repair a proper and lawful bridge across such ditch, drain or mill race; and any person refusing or neglecting to build, maintain and keep in repair any such bridge as specified in this section, shall be personally

liable to any person or persons for damages sustained by reason of such neglect or refusal.

§ 74. WHEN COUNTY SHALL BUILD BRIDGE.] Whenever it shall appear to the board of county commissioners of any county that any one of the townships in such county would be immeasurably burthened by erecting or repairing any necessary bridge in said township, such board of county commissioners shall cause such sum to be raised and levied upon the county as will be sufficient to defray the expenses of erecting or repairing such bridge; and such money when collected shall be applied by the said board of commissioners to the purposes for which the same were raised: *Provided*, That no board of commissioners shall, under the provisions of this section, cause any levy to be made for the repair or construction of any bridge when the cost of such repair or construction shall be less than two hundred dollars.

§ 75. CONTRACTING DEBTS RESTRICTED.] No township board has power to contract debts or make expenditures for any one year in a larger sum than the amount of taxes assessed for such year.

§ 76. ELECTION PRECINCT.] Each lawfully organized township shall constitute an election precinct.

POUNDS.

§ 77. MAY PROVIDE POUND.] Each township board may at the expense of the township, and in such places therein as such board shall deem necessary, provide and maintain one or more sufficient pounds in which swine, sheep, horses, asses, mules, goats and neat cattle may be restrained and kept from going at large, contrary to law, and the same shall be under the care and direction of such pound masters as are chosen or appointed for that purpose.

§ 78. DUTY OF POUND MASTER--FEES, ETC.] It shall be the duty of the pound master of each township to receive and keep all beasts delivered to them, in the public pound, and may retain and keep in custody such animals until all damages and costs are paid, or until good and sufficient security shall be given for the same, and if the owner of such animals fail to appear and pay all damages and costs as provided in this section, within 3 days after such impounding, the pound master shall advertise the same for sale, giving ten days' no-

tice of such sale by advertising in the manner as is required in case of constable's sale of goods and chattels taken by execution or attachment: *Provided*, That if the owner or owners of such animals be known to the pound master, it shall be his duty to notify the owner or owners of such animals, within two days after taking such animals in charge if such owner shall reside in the county. Such notice shall specify the time when and the place where such beasts were distrained, the number of such beasts, and the amount of damages and costs, if known.

§ 79. PROCEEDS OF SALE—HOW DISPOSED OF.] From the proceeds of the sale mentioned in section 78, the pound master shall retain a sufficient amount to pay his fees, and the costs of keeping and advertising, and the costs of sale; and if there be any surplus money, the same shall be paid to the owner of such beasts, if known; if no owner appear at the time of sale or within ten days thereafter and claim such surplus, the same shall be paid by the pound master to the treasurer of the township where such sale is made.

§ 80. SURPLUS MONEYS—HOW DISPOSED OF.] The several township treasurers to whom any moneys may be paid, in pursuance of the last section, shall keep the same for one year from the time of such sale, unless the owner of such beasts shall sooner demand the same. But if the said money shall be so demanded, the same shall be paid to the owner of such beasts, the said treasurer deducting therefrom two per cent. for his fees. But if the money be not demanded by the owner within one year, the said treasurer shall place the same in the treasury of his township, for the use of the township, subject to the order of the township board.

§ 81. ACT—HOW CONSTRUED.] Nothing in this act shall be so construed as to prevent any person or persons from taking advantage of the provisions of chapter thirty-eight of the Code of Civil Procedure, approved February 17, 1877.

PENALTY WHERE PERSON ELECTED FAILS TO QUALIFY.]—And every person elected to any township office who shall fail to qualify as provided by this section shall forfeit and pay the sum of ten dollars, to be collected by suit before any justice of the peace in the county where such person resides, and the said fine when collected to be paid into the township treasury for the use of the township.

COUNTY CLERK TO MAKE ASSESSMENT ROLL.—It shall be the duty of the county clerk when the several assessors have made returns of the assessments, to make out the county assessment roll as provided for in section 26 of chapter twenty-eight of the Political Code of the Revised Codes of 1877.

ACTIONS BY AND AGAINST TOWNSHIPS.

§ 82. **LEGAL PROCEEDINGS AGAINST TOWNSHIP.]** In legal proceedings against a township by name, all papers shall be served on the chairman of the boards of supervisors, and in case of his absence on the township clerk; and whenever any action or proceeding is commenced, said chairman shall attend to the defense thereof and lay before the other members of the township board a full statement of such proceedings, and shall take such steps in the matter as a majority of the said board shall there agree upon.

§ 83. **CERTAIN ACTIONS NOT TO BE BROUGHT BEFORE RESIDENT JUSTICE.]** No action in favor of any township shall be brought before any justice of the peace residing in such township.

§ 84. **POWER OF COURT IN RELATION TO TOWNSHIP LANDS.]** Whenever by decree or decision, in any action or proceeding brought to settle any controversy in relation to township commons or other lands the common property of a township, or for the partition thereof, the rights of any township are settled and confirmed, the court in which such proceedings are had may partition such lands according to the right of parties.

§ 85. **JUDGMENT AGAINST TOWNSHIP—HOW PAID.]** When a judgment is recovered against any township in an action prosecuted by or against said township, no execution shall be awarded or issued upon such judgment; but the same unless reversed or stayed on appeal, shall be paid by the township treasurer upon demand and the delivery to him of the certified copy of the docket of the judgment, if there is sufficient money belonging to such township in his hands not otherwise appropriated. If he fails to do so he shall be liable on his bond for the amount, unless the collection thereof is afterwards stayed upon appeal.

§ 86. **WHEN TOWNSHIP BOARD TO CAUSE EXTRAORDINARY LEVY.]** If judgment for the recovery of money is rendered against any township and the judgment is not satisfied, or proceedings

thereon stayed by appeal or otherwise before the next annual meeting of said township board to levy taxes, a certified copy of the docket of the judgment may be presented to *to* said township board at said annual meeting. The township board shall thereupon cause the amount due on the judgment with interest from the date of its recovery, to be levied as a special tax for the payment of said judgment.

FEES OF TOWNSHIP OFFICERS.

§ 87. SALARY AND FEES OF OFFICERS.] The township supervisors shall each receive one dollar and fifty cents for each day necessarily engaged in the duties of their office, except when acting as judges of election, when they shall each receive two dollars per day. The township clerk shall receive one dollar and fifty cents for each day necessarily engaged in the discharge of the duties of his office, and two dollars per day when acting as clerk of election: *Provided*, That the township clerk shall be paid fees for the following, and not a per diem:

Serving notices of election upon township officers as required by law, twenty-five cents each.

Filing any paper required by law to be filed in his office, ten cents each.

For posting up notices as required by law, twenty-five cents each.

For copying any record or instrument on file in his office and certifying the same, ten cents for each folio, to be paid for by the person applying for the same.

§ 88. PAY OF ASSESSORS.] The township assessors shall receive for their services while necessarily engaged in the duties of their offices, the sum of two dollars per day.

§ 89. FEE OF TREASURER.] The township treasurer shall receive two per cent. on all money received and by him disbursed for the township according to law.

§ 90. PAY OF OVERSEER OF HIGHWAYS.] The overseer of highways shall each receive the sum of two dollars per day for each day necessarily engaged in the discharge of the duties of his office.

§ 91. FEES OF POUND MASTER.] The pound master shall receive the following fees, to-wit:

For taking into pound and discharging therefrom any horse, ass, mule, sheep or hog, and all neat cattle, ten cents each.

For keeping each head twenty-four hours in pound, twenty cents each.

For serving notices, advertising and selling animals, the same fees as are allowed constables for like services, and he shall have a lien on such animals for his legal fees.

§ 92. FEES OF CONSTABLES.] Constables shall be entitled to receive the same fees as are allowed sheriffs for like services.

§ 93. FEES OF JUSTICES. Justices of the peace shall receive the same fees as are or may be provided in chapter 39 of the Political Code.

§ 94. CERTIFICATE TO OFFICIAL ACTS OF JUSTICE.] The bond and oath of office of a justice of the peace, filed in the office of the clerk of the district court for the county or judicial subdivision, are sufficient authority for said clerk to certify to the official acts and signature of such justice of the peace.

§ 95. CONSTABLE MAY MAKE ARREST. FINE FOR DRUNKENNESS.] Any constable in any organized township containing any village not incorporated shall be a proper officer for arresting and detaining any person for disorderly conduct within the village arising from drunkenness or otherwise, without process first issuing, and any person deemed guilty of such disorderly conduct shall be taken before any justice of the peace of such township, and upon conviction thereof be fined in the sum of not less than five nor more than ten dollars and all costs arising from such complaint and trial.

§ 96: SPECIAL ELECTION FOR JUSTICES.] The supervisors of any organized township may call a special election at any time to fill all vacancies occurring in the office of justice of the peace, but the township clerk shall give at least ten days' notice of such special election by posting a notice in three of the most public places in the township.

§ 97. All acts and parts of acts in conflict with the provisions of this chapter are hereby repealed.

§ 98. This act shall take effect from and after its passage and approval.

Approved, February 18, 1879.