

be sent or conveyed such cattle into that part of the territory subject to the provisions of this act, or own or possess the same therein, except that such cattle may be shipped or conveyed by themselves across said river to an enclosure upon the left bank thereof, upon the line of any railroad crossing this Territory, and may be conveyed from such enclosure across and without this Territory by continuous passage in cars upon said railroad.

§ 10. PURPOSE OF THIS ACT.] The object of this act is hereby declared to be for the purpose of preventing the spread of pestilence and disease among *native and domestic* native and domestic cattle of this Territory east and north of the Missouri river, which arises and is communicated from that class of cattle described in this act as Texas and Cherokee cattle, and to protect the native and domestic cattle of this Territory from destruction from the poison, disease or sickness which it is believed is communicated from such Texas or Cherokee cattle.

§ 11. This act shall take effect and be in force from and after its passage.

ENDORSED.—Received at Executive Office, March 6, 1883, at 4:40, P. M.

**Note by the Secretary of the Territory.**

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,  
*Secretary of the Territory.*

## Township Government.

### CHAPTER 112.

AN ACT to Provide for the Organization of Civil Townships and the Government of the Same.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota :*

#### CHAPTER I.—TOWNSHIP ORGANIZATION.

##### I.—TOWNSHIPS, HOW ORGANIZED AND NAMED.

§ 1. WHEN COUNTY BOARD TO FIX BOUNDARIES OF TOWN.]  
Whenever a majority of the legal voters of any congressional town-

ship in this Territory containing twenty-five legal voters, petition the board of county commissioners to be organized as a town under this chapter, said board shall forthwith proceed to fix and determine the boundaries of such new town and to name the same; and said board shall make a full report of all their proceedings in relation to laying off said town, and file the same with the county auditor or county clerk.

§ 2. MAY ATTACH FRAGMENT OF CONGRESSIONAL TOWNSHIP TO ADJOINING TOWN.] A fraction of a township may be attached by said commissioners to an adjoining town, or be divided between two or more towns, or organized separately, according to the wishes of a majority of the legal voters to be affected thereby; and when rivers, or lakes, or creeks so divide a township as to make it inconvenient to do town business, the said commissioners may dispose of any fraction so formed by annexing the same to an adjoining township in the same county, if it shall seem to them proper, whenever petitioned to do so by not less than two thirds of the legal voters residing in such fraction, and the fact that any such petition is so signed by two thirds of such voters may be proved by the affidavit of any legal voter residing in such fraction having knowledge of the fact, and townships having two or more villages or cities, each containing two hundred or more inhabitants, may petition the county commissioners for a division; and whenever the county commissioners are so petitioned, they may, if they think the interest of such town will be subserved thereby, proceed to divide such townships in such manner as will best suit the convenience of the Territory:

*Provided, however,* That at least twenty days notice shall be given by the county commissioners to the chairman of the board of supervisors of each township affected by the change, before action is taken thereon:

*Provided further,* That nothing herein contained shall be construed to release any property in or belonging to that part of any township so detached, from any tax levied or assessed prior to such division being made:

*Provided,* That the part or portion of any town annexed to any other town, and any village or city separated from any town under the provisions of this act, shall not be released from, or in any way discharged from the payment of any bonded or other indebtedness that may exist against the town from which separation has been made.

§ 3. NAME OF TOWN.] Towns thus formed shall be named in accordance with the expressed wish of a majority of the legal voters resident therein, but if they fail to so designate the name the county commissioners may select a name.

§ 4. FIRST TOWN MEETING.] The county commissioners shall thereupon make out notices designating a suitable place for holding the first town meeting in each town, which shall be holden within twenty days after said town is organized; and the auditor or county clerk shall deliver such notice to the sheriff of the county, who shall cause the same to be posted in each township not less than ten days before the day set for such town meeting.

§ 5. COUNTY CLERK TO TRANSMIT NAME TO AUDITOR.] Each county auditor or county clerk shall, within thirty days after such town is organized, transmit by mail to the Auditor of the Territory an abstract of such report, giving the bonds of each town and the name designated; and said county auditor or county clerk shall record in a book for that purpose, a full description of each town.

§ 6. WHERE SIMILAR NAMES ARE ADOPTED.] If the Auditor of the Territory on comparing the abstract of the reports from the several counties finds that any two or more townships have the same name he shall transmit to the auditor or county clerk of the proper county the name of the town to be altered; and the board of commissioners shall at their next meeting thereafter adopt for such town some name different from those heretofore named, so that no two towns organized under this chapter shall have the same name, and when such name is adopted the auditor [or] clerk of the county shall inform the Territorial Auditor as before directed.

§ 7. PRESENT BOUNDARIES TO REMAIN.] The limits and boundary lines of every organized township shall remain as now established, until otherwise provided by the board of county commissioners under the authority of law.

## II.—CORPORATE POWERS OF TOWNS.

§ 8. POWERS OF TOWN.] Each town is a body corporate and has capacity :

First—To sue and be sued.

Second—To purchase and hold lands within its own limits, and for the use of its inhabitants, subject to the powers of the Legislature.

Third—To make such contracts, purchase and hold such personal property as may be necessary for the exercise of its corporate or administrative powers.

Fourth—To make such orders for the disposition, regulation or use of its corporate property as may be deemed conducive to the interests of its own inhabitants.

§ 9. SAME.] No town shall possess or exercise any corporate powers except such as are enumerated in this chapter, or are speci-

ally given by law or necessary to the exercise of the power so enumerated or granted.

§ 10. ACTIONS TO BE IN CORPORATE NAME.] All acts or proceedings by or against a town in its corporate capacity, shall be in the name of such town; but every conveyance of land within the limits of such town, made in any manner for the use or benefit of its inhabitants, has the same effect as if made to the town by name.

### III.—ANNUAL TOWN MEETINGS.

§ 11. CITIZENS SHALL HOLD TOWN MEETINGS.] The citizens of the several towns of this Territory qualified to vote at general elections, shall annually assemble and hold town meetings in their respective towns on the first Tuesday of March, at such place in each town as the electors thereof, at their annual town meetings from time to time appoint; and notice of the time and place of holding such meeting shall be given by the town clerk by posting up written or printed notices in three of the most public places in said town, at least ten days prior to said meeting:

*Provided*, That before any change of place of holding town meetings is made, notice of such contemplated change may be given by any member of the town board to the town clerk, who shall in his regularly printed or written notices, as provided hereinabove, incorporate the special notice of the contemplated change of place of holding said town meeting.

§ 12. WHAT OFFICERS TO BE CHOSEN.] There shall be elected at the annual town meeting in each town, three supervisors—one of whom shall be designated on the ballots as chairman—one town clerk, one treasurer, one assessor, two justices of the peace, two constables and one overseer of highways for each road district in said town; but justices of the peace and constables shall be elected only once in two years, except to fill vacancies.

§ 13. POWERS OF ELECTORS.] The electors of each town have power at their annual town meeting:

First—To determine the number of pound masters and the location of pounds.

Second—To select such town officers as are required to be chosen.

Third—To direct the institution or defense of actions in all controversies where such town is interested.

Fourth—To direct such sums to be raised in such town for prosecuting or defending such actions as they may deem necessary.

Fifth—To make all rules and regulations for impounding of animals.

Sixth—To impose such penalties on persons offending against



any rule or regulation established by said town, as they think proper, not exceeding ten dollars for each offense, unless herein otherwise provided

Seventh—To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the town.

Eighth—To vote to raise such sums of money for the repair and construction of roads and bridges, for the support of the poor, and for other necessary town charges, as they deem expedient;

*Provided*, That they may, at their annual town meeting, direct such an amount of the poll or road tax of the town to be expended on the highways in an adjoining town as they deem conducive to the interests of the town, which labor and tax shall be expended under the direction of the supervisors of the town furnishing the same.

*Provided, further*, That where more than one entire congressional township is included within an organized town, the poll and road tax raised within the limits of each of such congressional townships shall be expended within such congressional township, unless raised to be expended outside of such organized town, in an adjoining town.

#### IV.—BY-LAWS.

§ 14. BY-LAWS—WHEN TO TAKE EFFECT.] No by-law made by any town shall take effect before the same is published by posting up copies thereof in three of the most public places in the town; and such by-laws, duly made and so published, are binding upon all persons coming within the limits of the town, as well as upon the inhabitants thereof, and shall remain in force until altered or repealed at some subsequent town meeting.

§ 15. TOWN CLERK SHALL POST BY-LAWS.] The town clerk shall post in three of the most public places in his town, copies of all by-laws made by such town, and shall make an entry in the town records of the time when, and the place where, such by-laws were posted.

#### V.—SPECIAL TOWN MEETINGS.

§ 16. WHEN SPECIAL MEETINGS MAY BE HELD.] Special meetings may be held for the purpose of electing town officers to fill vacancies that occur, also for the purpose of transacting any lawful business, whenever the supervisors, town clerk and justices of the peace, or any two of them, together with at least twelve other freeholders of the town, file in the office of the town clerk a written statement that a special meeting is necessary to the interest of the town.

§ 17. TOWN CLERK TO GIVE NOTICE.] Every town clerk with whom such statement is filed, as required in the preceding section, shall record the same, and immediately cause notice to be posted up in five of the most public places in the town, giving at least ten days' notice of such special meeting; and if there is a newspaper printed in said town, he shall cause a copy of said notice to be published therein at least three days before the time appointed for such meeting.

§ 18. WHAT NOTICE SHALL SPECIFY.] Every notice given for a special town meeting shall specify the purpose for which it is to be held, and no other business shall be transacted at such meeting than such as is specified in such notice. If vacancies in office are to be filled at such meeting, the notices shall specify in what office vacancies exist, how they occurred, who was the last incumbent, and when the legal term of each office expires.

#### VI.—MODE OF CONDUCTING TOWN MEETINGS.

§ 19. ORGANIZATION.] The electors present, at any time between nine and ten o'clock in the forenoon or the day of the annual town meeting, or special town meeting, shall be called to order by the town clerk, if there is one present; in case there is none present, then the voters may elect, by acclamation, one of their number chairman, and three of their number judges of town meeting who shall be duly sworn and be judges of the qualifications of township electors. They shall then proceed to choose one of their number to preside as moderator of such meeting. The town clerk last before elected, shall be clerk of the meeting, and keep full minutes of its proceedings, in which he shall enter at length every order or direction, and all rules and regulations made by the meeting. If the town clerk is absent, then such person as is elected for that purpose shall act as clerk of the meeting.

§ 20. DUTY OF MODERATOR; RECONSIDERATION, ETC.] At the opening of every town meeting, the moderator shall state the business to be transacted, and the order in which it shall be entertained, and no proposition to vote a tax shall be acted on out of the order of business or stated by the moderator, and no proposition to reconsider any vote shall be entertained at any town meeting, unless such proposition to reconsider is made within one hour from the time such vote was passed, or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the poll list at such election up to the time such motion is made; and all questions upon motions made at town meetings shall be determined by a majority of the electors voting; and the moderator shall ascertain and declare the result of the votes on each question.

§ 21. OPENING OF POLLS.] Before the electors proceed to elect any town officer, proclamation shall be made of the opening of the polls, by the moderator, and proclamation shall, in like manner, be made of the adjournment, and of the opening and closing of the polls, until the election is ended.

§ 22. WHO ARE VOTERS.] No person is a voter at any town meeting unless he is qualified to vote at general elections, and has been, for the last ten days, an actual resident of the town wherein he offers to vote.

§ 23. CHALLENGE.] If any person offering to vote at any election, or upon any question arising at such town meeting, is challenged as unqualified, the judges of the town meeting shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the town meeting.

§ 24. CERTAIN OFFICERS TO BE ELECTED BY BALLOT.] The supervisors, treasurer, town clerk, assessor, justices of the peace, constables and overseer of the poor, in each township, shall be elected by ballot. All other officers, if not otherwise provided by law, shall be chosen either by yeas and nays, or by a division, as the electors determine.

§ 25. THE BALLOT.] When the electors vote by ballot, all the officers voted for shall be named in one ballot, which shall contain, written or printed, or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be chosen, and shall be delivered to one of the judges so folded as to conceal its contents.

§ 26. POLL LIST.] When the election is by ballot, a poll list shall be kept by the clerk of the meeting, on which shall be entered the name of each person whose vote is received.

§ 27. JUDGES TO DEPOSIT BALLOT.] When the election is by ballot, one of the judges shall deposit the ballot in a box provided for that purpose.

§ 28. JUDGES TO CANVASS.] At the close of every election by ballot, the judges shall proceed publicly to canvass the votes, which canvass when commenced, shall continue without adjournment or interruption until the same is completed.

§ 29. MANNER OF CANVASSING.] The canvass shall be conducted by taking a ballot at a time from the ballot-box and counting until the number of ballots is equal to the number of names on the poll list, and, if there are any left in the box they shall be immediately destroyed, and the person having the greatest number of votes for any office shall be declared duly elected ;

*Provided,* That if two or more persons have an equal and the

highest number of votes for any office, the judges of election shall at once publicly, by lot, determine who of such persons shall be declared elected. If, on opening the ballots, two or more ballots are found to be so folded that it is apparent that the same person voted them, the board shall destroy such votes immediately.

§ 30. RESULT TO BE READ TO MEETING.] The canvass being completed, a statement of the result shall be entered at length by the clerk of the meeting, in the minutes of its proceedings, to be kept by him as before required, which shall be publicly read by him to the meeting, and such reading shall be deemed notice of the result of the election, to every person whose name is entered on the poll list as a voter.

§ 31. MINUTES TO BE FILED.] The minutes of the proceedings of every town meeting, subscribed by the clerk of said meeting and by the judges, shall be filed in the office of the town clerk, within two days after such town meeting.

§ 32. NOTICE OF ELECTION.] The clerk of every town meeting, within ten days thereafter, shall transmitt to each person elected to any town office, whose name is not entered on the poll list as a voter, notice of his election.

#### VII.—ANNUAL TOWN MEETING FAILING TO ELECT.

§ 33. PROCEEDINGS WHEN TOWN MEETING FAILS TO ELECT.] In case any town refuses or neglects to organize and elect town officers at the time fixed by law for holding annual town meetings, twelve freeholders of the town may call a town meeting for the purpose aforesaid, by posting up notices in three public places in such town, giving at least ten days notice of such meeting; which notice shall set forth the time and place and object of such meeting; and the electors, when assembled, by virtue of such notice, shall possess all the powers conferred upon them at the annual town meeting. In case no such notice is given, as aforesaid, within thirty days after the time for holding the annual town meeting, the board of county commissioners of the county shall, on the affidavit of any freeholder of said town, filed in the office of the clerk of the board, setting forth the facts, proceed, at any regular or special meeting of the board, and appoint the necessary town officers of such town, and the persons so appointed shall hold their respective offices until others are elected and qualified in their places, and shall have the same powers and be subject to the same duties as if they had been duly elected.

#### VIII.—QUALIFICATION OF OFFICERS.

§ 34. VOTER ELIGIBLE TO OFFICE.] Every person qualified to vote at town meetings is eligible to any town office.

§ 35. OATH OF OFFICERS.] Every person elected or appointed to the office of supervisor, town clerk, assessor, treasurer or constable, with ten days after he is notified of his election or appointment, shall take and subscribe before the town clerk or justice of the peace, an oath to support the constitution of the United States, and of the organic act of this Territory, and faithfully to discharge the duties of his office (naming the same) to the best of his ability. Such oath shall be administered without fee, and certified by the officer before whom it was taken, with the date of taking the same.

§ 36. CERTIFICATE TO BE FILED.] The person taking such oath shall immediately, and before entering upon the duties of his office, file the certificate of such oath in the office of the town clerk.

§ 37. JUSTICE TO TAKE OATH AND GIVE BOND.] Every person elected or appointed to the office of justice of the peace, shall, within ten days after receiving notice thereof, take and subscribe before any other officer duly authorized to administer oaths, an oath to support the constitution of the United States and the organic act of the Territory of Dakota, and faithfully and impartially to discharge the duties of his office according to the best of his ability. He shall also execute a bond to the board of supervisors, with two or more sufficient sureties, to be approved by the chairman, in the penal sum of not less than five hundred dollars, nor more than one thousand dollars, conditioned for the faithful discharge of his official duties. Said chairman shall endorse thereon his approval of the sureties named in such bond, and such justice shall immediately file the same, together with his oath of office, duly certified, with the clerk of the district court of the proper county for the benefit of any person aggrieved by the acts of said justice, and any person aggrieved may maintain an action on said bond in his own name against said justice and his sureties.

§ 38. BOND OF TREASURER.] Every person elected or appointed to the office of treasurer, before he enters upon the duties of his office, shall execute and deliver to the supervisors of the town and their successors in office, a bond with one or more sureties, to be approved by the chairman of the board, in double the probable amount of money to be received by him, which amount shall be determined by said board, conditioned for the faithful execution of his duties as such treasurer.

§ 39. BOND TO BE FILED.] The said chairman shall within six days thereafter file such bond with said approval indorsed thereon, in the office of register of deeds, who shall record the same in a book provided for that purpose.

§ 40. CONSTABLE'S OATH AND BOND.] Every person chosen to the office of constable, before he enters upon the duties of his office, and within eight days after he is notified of his election or appointment, shall take and subscribe the oath of office prescribed by law, and execute a bond to the board of supervisors in such penal sum as the supervisors direct, with one or more sufficient sureties to be approved by the chairman of said board or the town clerk, conditioned for the faithful discharge of his duties. The chairman of said board or the town clerk shall, if such bond is approved, endorse his approval thereon, and cause such bond to be filed with the town clerk for the benefit of any person aggrieved by the acts or omissions of said constable, and any person so aggrieved, or the town, may maintain an action on said bond against said constable and sureties.

§ 41. WHAT DEEMED REFUSAL TO SERVE.] If any person elected or appointed to the office of treasurer or constable does not give such security and take such oath as is required above within the time limited for that purpose, such neglect shall be deemed a refusal to serve.

§ 42. SAME.] If any person elected or appointed to any town office of whom an oath or bond is required neglects to file the same within the time prescribed by law, such neglect shall be deemed a refusal to serve in such office.

§ 43. PENALTY FOR NEGLECT TO TAKE OATH.] If any town officer who is required by law to take the oath of office enters upon the duties of his office before taking such oath, he forfeits to such town the sum of fifty dollars.

§ 44. ROAD OVERSEER AND POUND-MASTER TO FILE ACCEPTANCE.] Every person elected or appointed to the office of overseer of highways or poundmaster, before he enters upon the duties of his office, and within ten days after he is notified of his election or appointment, shall file in the office of the town clerk a notice signifying his acceptance of such office. A neglect to file such notice shall be deemed a refusal [to] serve.

§ 45. TERM OF OFFICE.] Town officers, except justices of the peace and constables, hold their offices for one year and until their successors are elected or appointed to their places and are qualified. The justices of the peace and constables shall hold their offices for two years and until others are chosen and qualified.

#### IX.—FILLING VACANCIES.

§ 46. BOARD MAY ACCEPT RESIGNATION.] The board of supervisors of any town may, for sufficient cause shown to them, accept the resignation of any town officer in their town, and whenever they accept any such resignation they shall forthwith give notice thereof to the town clerk.

§ 47. VACANCIES, HOW FILLED.] Whenever any town fails to elect the proper number of town officers, or whenever any person elected to a town office fails to qualify, or whenever any vacancy happens in any town office from death, resignation, removal from town, or other cause, the justices of the peace of the town, together with the board of supervisors, or a majority of them, shall fill the vacancy by appointment, by warrant under their hand, and the persons so appointed shall hold their offices until the next annual town meeting and until others are elected and qualified in their places, and shall have the same power and be subject to the same duties and penalties as if they had been duly elected.

§ 48. VACANCIES IN APPOINTING BOARD.] Whenever a vacancy occurs from any cause in any of the offices enumerated in the foregoing section, composing the board of appointment for the appointment of town officers in case of vacancy, the remaining officers of such appointing board shall fill any vacancy thus occurring.

§ 49. WHEN COUNTY CLERK TO APPOINT ASSESSOR.] When any township assessor is elected and fails or refuses to qualify to discharge the duties of his office, or if the electors of said township fail, from any reason whatever, to elect an assessor, and the town board of said township fails or refuses to appoint an assessor for said township on or before the first day of March of that year for which said assessor is to serve, then it shall be the duty of the county auditor or county clerk to appoint an assessor for said township, who shall be a resident of said county.

#### X.—BOARD OF HEALTH.

§ 50. BOARD OF HEALTH.] The town supervisors shall constitute a board of health, and within their respective towns shall have and exercise all the powers necessary for the preservation of the public health.

§ 51. POWERS.] The board of health may examine into all nuisances, sources of filth and causes of sickness, and make such regulations respecting the same as they may judge necessary for the public health and safety of the inhabitants; and every person who shall violate any order or regulation made by any board of health, and duly published, shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months.

§ 52. PUBLIC NOTICE.] Notice shall be given by the board of health of all orders and regulations made by them, by publishing the same in some newspaper, if there is one published in such town or the county; if there is none, then by posting up such

notice in five public places therein; and such publication of said orders and regulations shall be deemed a legal notice to all persons.

§ 53. PENALTY FOR REFUSAL TO OBEY ORDER.] Whenever any nuisance, source or 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 thereof 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 town.

§ 54. IN CASE OF REFUSAL TO OBEY ORDER.] 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.

§ 55. BOARD TO ENTER INFECTED PREMISES—PROCEEDINGS IF OPPOSED.] Whenever the board of health thinks it necessary, for the preservation of the health of its 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 town, stating the facts in the case so far as he has knowledge thereof.

§ 56. SAME.] 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.

§ 57. QUARANTINE.] When any person coming from abroad or residing in any town or city in this Territory is infected or lately has been infected with the smallpox or other contagious disease dangerous to the public health, the board of health of the town or city where such sick or infected person is, may immediately cause such person to be removed to a separate house, if it can be done without danger to his or her health, and shall provide for such person or persons, nurses, medical attendance and other necessities, which shall be a charge in favor of such town or city upon the person so provided for, his parents, guardian or master, if able, otherwise upon the county to which he belongs, or upon the Territory, if said person be a non-resident of the Territory.



§ 58. SAME.] If such infected person cannot be removed without danger to his or her 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 measures as they may deem necessary for the safety of the inhabitants.

§ 59. 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 and 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.

#### XI.—POWERS AND DUTIES OF SUPERVISORS.

§ 60. POWERS OF SUPERVISORS.] The supervisors shall have charge of such affairs of the town as are not by law committed to other town officers ; and they shall have power to draw orders on the town treasurer for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the town, and for all moneys raised by the town to be disbursed for any other purpose.

§ 61. IMPROVING STREETS.] Whenever any incorporated village or town which is laid out into streets is included in the limits of an organized township, the town supervisors are authorized to cause improvement to be made in any street that may be needed as a highway, if the corporate authorities of said village or town neglect to make such improvements.

§ 62. BOARD TO PROSECUTE ACTIONS.] The supervisors shall, by their name of office, prosecute for the benefit of the town, all actions upon bonds given to them, or their predecessors in office ; and shall also sue for and collect all penalties and forfeitures, in respect to which no other provision is made, incurred by any officer or inhabitant of the town ; and they shall have power, in like manner, to prosecute for any trespass committed on any public inclosure, highway or property belonging to the town, and shall pay all moneys collected under this section to the town treasurer.

§ 63. QUORUM.] Any two of the supervisors constitute a quorum for the performance of any duties required by law of the town supervisors, except when otherwise provided.

## XII.—DUTIES OF TOWN CLERK.

§ 64. CLERK MAY ADMINISTER OATH.] The town clerks of the several towns, city clerks of all cities, and recorders of all villages in this Territory, are hereby authorized to administer all oaths and take all acknowledgments of instruments, authorized or required by law.

§ 65. MAY APPOINT DEPUTY, ETC.] The town clerk shall have the custody of the record books and papers of the town, when no other provision is made by law, and he shall duly file and safely keep all certificates of oaths and other papers required by law to be filed in his office. He may at his discretion appoint a deputy town clerk, for whose acts he shall be responsible. Before any deputy town clerk shall enter upon the duties of his office, he shall take and subscribe the oath required by law, which oath shall be filed in the office of the clerk of the court.

§ 66. KEEP RECORD.] He shall record in the book of records of his town, minutes of the proceedings of every town meeting, and he shall enter therein every order or direction, and all rules and regulations of any such town meeting; and shall also file and preserve all accounts audited by the town board, or allowed at a town meeting, and enter a statement thereof in such book of records.

§ 67. OATH AND BOND.] Every person elected or appointed to the office of town clerk in any of the towns of this Territory, shall, before he enters upon the duties of his office, and within the time prescribed by law for filing his oath of office, execute a bond with two or more sufficient sureties, to be approved by the town treasurer, in such penal sum as the supervisors direct, conditioned for the faithful discharge of his duties. Said bond so approved shall be filed in the office of the clerk of the district court for the benefit of any person aggrieved by the acts or omissions of said town clerk, and any person so aggrieved, or the town, may maintain an action on said bond against said town clerk and sureties.

§ 68. CLERK TO SEND NAME TO DISTRICT COURT CLERK.] Every town clerk, immediately after the qualification of any constable, elected or appointed in his town, shall transmit to the clerk of the district court of the county the name of such constable.

§ 69. CLERK TO SEND CERTAIN NOTICE TO DISTRICT COURT CLERK.] Each town clerk shall, immediately after the election of any justice of the peace in his town, transmit a written notice thereof to the clerk of the district court of said county, stating therein the name of the person elected, and the term for which he is elected; and if elected to fill a vacancy, he shall state in said notice who was the last incumbent of the office.

§ 70. PENALTY FOR NEGLECT.] If any town clerk willfully neglects to make such return, such omission is hereby declared a misdemeanor, and on conviction thereof the person so offending shall be adjudged to pay a fine not exceeding ten dollars.

XII.—DUTIES OF TOWN TREASURER.

§ 71. TREASURER'S DUTIES.] The town treasurer shall receive and take charge of all moneys belonging to the town, or which are by law required to be paid into the town treasury, and shall pay over and account for the same upon the order of such town, or the officers thereof, duly authorized in that behalf, made pursuant to law, and shall perform all such duties as may be required of him by law.

§ 72. ACCOUNT OF RECEIPTS AND DISBURSEMENTS.] Every town 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 for that purpose, and exhibit such account, together with his vouchers, to the town 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.

§ 73. TOWN TREASURER TO DRAW MONEYS FROM COUNTY.] The town treasurer shall from time to time draw from the county treasurer such moneys as have been received by the county treasurer for the use of his town, and on receipt of such moneys shall deliver proper vouchers therefor. Each town treasurer shall be allowed and entitled to retain two per centum of all moneys paid into the town treasury for receiving, safe keeping and paying over the same according to law, except such moneys as are appropriated for bounty to soldiers, of which he shall only be allowed to retain one per cent.

§ 74. TOWN TREASURER'S STATEMENT.] Each town treasurer, within five days preceding the annual town meeting, shall make out a statement in writing of the moneys by him received into the town treasury from the county treasurer, and from all other officers and persons, 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 also state therein the amount of moneys remaining in his hands as treasurer. Such statement shall be

filed by him in the office of the town clerk, and shall be by such clerk carefully preserved and recorded in the town book of records.

§ 75. PENALTY FOR NEGLECT.] Every town treasurer who refuses or neglects to comply with the provisions of the four preceding sections, shall forfeit not more than two thousand dollars, to be recovered in any court of competent jurisdiction, the amount to be fixed by the jury trying the cause, or by the court, if there is no jury impaneled, and may be recovered by a civil action, in the name of the person who prosecutes the same with costs of the suit; one-half shall go to the person so prosecuting, and the remainder to the town of which such delinquent is or has been treasurer.

§ 76. TREASURER'S RECORD—WARRANTS.] Each and every town treasurer in this Territory shall keep a suitable book to be provided at the expense of the town, in which he shall enter the town orders that he cannot pay for want of funds when presented to him for payment, which orders when presented shall be endorsed by such treasurer by putting upon the back of the same, the words: "Not paid for want of funds," giving the date of such indorsement, signing the name as town treasurer, which order, when so indorsed, shall bear interest from that date until paid. All town orders shall be paid in the order that they are registered, out of the first moneys that come into the town treasurer's hands for such purposes.

#### XIV.—TOWN BOARD OF AUDITORS.

§ 77. SUPERVISORS TO AUDIT ACCOUNTS.] The supervisors constitute a town board for the purpose of auditing all accounts payable by said town; and if for any cause there are not three supervisors present to constitute said board, the chairman, and in his absence, either of the supervisors, may notify any one or so many of the justices of the peace of the town as will, together with the supervisors present, make a board of three; and the board so constituted shall have authority to act as the town board.

§ 78. MEETINGS OF TOWN BOARD.] The town board shall meet annually on the Tuesday next preceding the annual town meeting to be held in said town, and at such other times as they deem necessary and expedient, for the purpose of auditing and settling all charges against said town; and they shall state on each account the amount allowed by them; but no allowance shall be made for any account which does not specifically state each item of the same and the nature thereof.

§ 79. BOARD TO AUDIT ACCOUNTS AT ANNUAL MEETING.] The board shall also, at their annual meeting in each year, examine and audit the accounts of the town treasurer for all moneys received

and disbursed by him as such officer; and they shall audit the accounts of all other town officers who are authorized by law to receive or disburse any money of the town by virtue of their office.

§ 80. SHALL DRAW UP REPORT.] Such board shall draw up report, stating in detail the items of account audited and allowed, the nature of each account, and the name of the person to whom such account was allowed, including a statement of the fiscal concerns of the town, and an estimate of the sum necessary for the current expenses thereof, the support of the poor and other incidental expenses for the ensuing year.

§ 81. REPORT TO BE READ.] Such report shall be produced and publicly read by the town clerk at the next ensuing town meeting, and the whole or any portion of such report may be referred, by the order of the meeting, to a committee, whose duty it shall be [to] examine the same and report thereon to such meeting.

§ 82. TREASURER TO PAY ORDERS.] The amount of any account audited and allowed by the town board, and the amount of any account voted to be allowed at any town meeting, shall be paid by the town treasurer on the order of said board, signed by the chairman and countersigned by the clerk; and all orders issued to any person by the town board for any sum due from such town, shall be receivable in payment of town taxes of said town.

§ 83. CLERK OF BOARD.] The town clerk shall be clerk of the town board, and shall keep a true record of all their proceedings in his office.

#### XV.—TOWN BOARD OF REVIEW.

§ 84. REVIEWING ASSESSMENT, CORRECTIONS, ETC.] The board of supervisors of each town, the assessor, recorder and president of each incorporated village, and the assessor, recorder and mayor of each city (except cities whose charter provides for a board of equalization), shall meet on the fourth Monday of June, at the office of the town clerk or recorder [or] city clerk, for the purpose of reviewing the assessment of property in such town or district, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor, and in case any property, real or personal shall have been omitted by inadvertence or otherwise, it shall be the duty of said board to place the same upon the list with the true value thereof, and proceed to correct the assessment so that each tract or lot of real property, and each article, parcel, or class of personal property,

shall be entered on the assessment list at the true and full value thereof; but the assessment of the property of any person shall not be raised until such persons have been duly notified of the intent of the board so to do. And on the application of any person considering himself aggrieved, they shall review the assessment and correct the same as shall appear to them just. Any two of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all cases presented on that day. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of personal property, shall be heard and decided by the town board;

*Provided*, That the complaints of non-residents in reference to the assessment of any property, real or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board.

§ 85. ASSESSOR TO GIVE NOTICE OF MEETING.] The assessor shall cause at least ten days previous notice of the time and place of the meeting of the town board of review, by posting notices in at least three public places in his town or district, but the failure to give such notice or hold such meeting, shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied.

#### XVI.—FEES OF TOWN OFFICERS.

§ 86. PAY OF OFFICERS.] The following town officers are entitled to compensation at the following rates for each day necessarily devoted by them to the service of the town, in the duties of their respective offices. The town assessors shall receive for their services three dollars per day while engaged in their respective duties as such assessors;

*Provided*, That compensation received by such assessor shall not exceed the sum of \$60.00 in any one year. The town clerks and supervisors shall receive for their services one dollar and a half per day when attending to business in their town, and two dollars when attending to business out of the town; no town supervisor shall receive more than thirty-five dollars compensation in any one year;

*Provided*, That the town clerk shall be paid fees for the following, and not a per diem: For serving notices of election upon town officers, as required by law, twenty-five cents each; for filing any paper required by law to be filed in his office, ten cents each; for posting up notices required by law, twenty-five cents each; for recording any order or any instrument or writing authorized by

law, ten cents for each hundred words; for copying any record of instrument on file in his office and certifying the same, ten cents for each hundred words, to be paid for by the person applying for the same.

*Provided, further,* That at any town meeting, before the electors commence balloting for officers, they may by resolution reduce or increase the compensation of officers, but no such increase shall exceed one hundred per cent.

XVII.—CLAIMS AGAINST TOWNS.

§ 87. ACCOUNTS, HOW STATED.] Before any account, claims or demands against any town or county of this Territory, for any property or services for which such town or county shall be liable, shall be audited or allowed by the board or officers authorized by law to audit and allow the same, the person in whose favor such account, claim or demand shall be, or his agent, shall reduce the same to writing in items, and shall verify the same to the effect that such account, claim or demand is just and true, that the money therein charged was actually paid for the purposes therein stated, that the property therein charged was actually delivered or used for the purposes therein stated and was of the value therein charged, and that the services therein charged were actually rendered and of the value therein charged, or in case such services were official for which fees are prescribed by law, then that the fees or amounts charged therefor are such as are allowed by law, and that no part of such account, claim or demand, has been paid;

*Provided,* That the provisions of this act shall not apply to any claim or demand for an annual salary or per diem of jurors or witnesses fixed by, or in pursuance of, any statute.

§ 88. ACCOUNTS TO BE VERIFIED.] The verification required by the preceding section may be made before any officer authorized by law to administer oaths, or before any member of the board to which the account, claim or demand shall be presented to be audited, and every member of such board is hereby authorized to administer the proper oath in such cases; and every person who shall willfully or knowingly swear falsely on any such cases, shall be deemed guilty of willful perjury, and be punished accordingly;

*Provided,* That in case any such account, claim or demand shall be made or presented by any administrator or executor on behalf of the estate of a deceased person, he shall not be required to verify the same, but may prove the same otherwise to the satisfaction of the board.

§ 89. CONSIDERATION OF ACCOUNT.] Whenever an account,

claim or demand against any town or county shall have been verified in the manner prescribed in this act; the board of officers to whom the same shall be presented may receive and consider the same, and may allow or disallow the same in whole or in part, as to such board or officers shall appear just or lawful, saving to such claimants the right of appeal.

§ 90. PENALTY FOR AUDITING ACCOUNT NOT VERIFIED.] Any member of such board who shall audit and allow any account, claim or demand required by this act to be itemized and verified, without the same having been first duly itemized and verified, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

#### XVIII.—SUITS BY AND AGAINST TOWNS.

§ 91. PROCEEDINGS IN CASE OF SUIT.] Whenever any controversy or cause of action exists between towns, or between a town and an individual or corporation, such proceedings shall be had either at law or equity, for the purpose of trying and settling such controversy, and the same shall be conducted in the same manner, and the judgment or decree therein shall have the like effect as in other actions or proceedings of a similar kind between individuals and corporations.

§ 92. TOWN TO SUE IN ITS NAME, EXCEPT.] In all such actions and proceedings the town shall sue and be sued by its name, except where town officers are authorized by law to sue in their name of office for the benefit of the town.

§ 93. PROCESS MUST BE SERVED AS DIRECTED.] No town or town officer shall be required to appear, answer, or plead to any such action at the first term of the court after the commencement thereof, when the same is commenced in the District Court, unless the process aforesaid is served as herein directed, at least thirty days before the commencement of the term.

§ 94. SERVICE, ON WHOM.] In legal proceedings against a town by name, all papers shall be served on the chairman of the board of supervisors, and in case of his absence, on the town clerk, and whenever any action or proceeding is commenced, said chairman shall attend to the defense thereof, and lay before the electors of the town, at the first town meeting, a full statement of such proceedings, for their direction in regard to the defense thereof.

§ 95. JURISDICTION.] No action in favor of any town shall be brought before any justice of the peace residing in such town.

§ 96. RECOVERY.] Whenever any action is brought to recover



a penalty imposed for any trespass committed on the lands belonging to the town, if it appears on the trial thereof that the actual amount of injury to such town lands in consequence of such trespass, exceeds the sum of twelve dollars and fifty cents, then the amount of actual damage, with costs of suit, shall be recovered in said action, instead of any penalty for said trespass imposed by the town meeting, and such recovery shall be used as a bar to every other action for the same trespass.

§ 97. COURT MAY PARTITION, WHEN.] Whenever by decree or decision, in any action or proceeding brought to settle any controversy in relation to town commons or other lands, the common property of a town, or for the partition thereof, the rights of any town are settled and confirmed, the court in which such proceedings are had may partition such lands according to the rights of parties.

§ 98. PAYMENT OF JUDGMENT.] When a judgment is recovered against any town or against any town officers in an action prosecuted by or against them in their name of office, no execution shall be awarded or issued upon such judgment, but the same, unless reversed or stayed on appeal, shall be paid by the town treasurer upon demand and the delivery to him of the certified copy of the docket of the judgment, if there is sufficient money of such town in his hands not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection thereof is afterwards stayed upon appeal. If payment is not made within thirty [days] after the time fixed by law for the county treasurer to pay over to the town treasurer the money in his hands belonging to such town, levied for the purpose of paying such judgment, next after the rendition of such judgment, execution may be issued on such judgment, but only town property shall be liable thereon.

§ 99. WHEN JUDGMENT IS NOT SATISFIED.] If judgment for the recovery of money is rendered against any town, and the judgment is not satisfied, or proceedings thereon stayed by appeal or otherwise, before the next annual meeting of said town, a certified copy of the docket of the judgment may be presented to said town at said annual meeting. The supervisors of the town shall thereupon cause the amount due on the judgment, with interest from the date of its recovery, to be added to the tax of said town, and the same certified to the county auditor or county clerk, and collected as other town taxes are collected.

#### XIX.—TOWN CHARGES—HOW LEVIED.

§ 100. TOWN CHARGES.] The following shall be deemed town charges:

First—The compensation of town officers for services rendered their respective towns.

Second—Contingent expenses necessarily incurred for the use and benefit of the town.

Third—The moneys authorized to be raised by the vote of the town meeting for any town purpose.

Fourth—Every sum directed by law to be raised for any town purpose :

*Provided*, That no tax for town purposes shall exceed the amount voted to be raised at the annual town meeting, as provided in subdivision nine, section fifteen (15) aforesaid.

§ 101. HOW LEVIED.] The moneys necessary to defray the town charges of each town shall be levied on the taxable property in such town, in the manner prescribed in the chapter for raising revenue and other money for Territory and county purposes and expenses.

#### XX.—BOOKS AND PAPERS OF OUTGOING OFFICERS.

§ 102. SUCCESSOR IN OFFICE TO DEMAND RECORDS.] Whenever the term of any supervisor, town clerk or assessor expires, and another person is appointed or elected to such office, such successor, immediately after he enters upon the duties of his office, shall demand of his predecessor all books and papers under his control belonging to such office.

§ 103. SAME.] Whenever either of the officers above named resigns, or the office becomes vacant in any way, and another person is elected or appointed in his stead, the person so elected shall make such demand of his predecessors or of any person having charge of such books and papers.

§ 104. RECORDS TO BE DELIVERED ON OATH.] Every person so going out of office, whenever thereto required pursuant to the foregoing provisions, shall deliver, upon oath, all records, books and papers in his possession, or in his control, belonging to the office held by him, which oath may be administered by the officer to whom such delivery is made.

§ 105. DEMAND FOR RECORDS OF ADMINISTRATOR.] Upon the death of any of the officers enumerated, the successor of such officers shall make such demand as above provided, of the executors or administrators of such deceased officer, and such executors or administrators shall deliver, upon like oath, all records, books, papers or moneys in their possession or under their control, belonging to the office held by their testator or intestate.

#### XXI.—GUIDE POSTS.

§ 106. SHALL ERECT GUIDE POSTS.] Every township shall, in the manner provided herein, erect and maintain guide posts on

the highways and other ways within the township, at such places as are necessary or convenient for the direction of travelers.

§ 107. REPORT OF GUIDE POSTS.] The supervisors shall submit to the electors, at every annual meeting, a report of all the places at which guide posts are erected and maintained within the town, and of all places at which, in their opinion, they ought to be erected and maintained. For each neglect or refusal to make such report, they shall severally forfeit the sum of ten dollars.

§ 108. PENALTY FOR NEGLECT TO FURNISH GUIDE POSTS.] Upon the report of the supervisors the town shall determine the several places at which guide posts shall be erected and maintained, which shall be recorded in the town records. A town which neglects or refuses to determine such places, and to cause a record thereof to be made, shall forfeit the sum of five dollars for every month during which it neglects or refuses so to do; and in such case, upon any trial for not erecting or maintaining guide posts reported to be necessary or convenient by the supervisors, the town shall be estopped from alleging that such guide posts were not necessary or convenient.

§ 109. CHARACTER OF GUIDE POSTS.] At each of the places determined by the town, there shall be erected a substantial post, of not less than eight feet in height, near the upper end of which shall be placed a board, and upon such board shall be plainly and legibly painted, or otherwise marked, the name of the next town or place, and such other town or place of note as the supervisors think proper, to which each of such roads lead, together with the distance or number of miles to the same; and also the figure of a hand, with the fore-finger thereof pointed towards the towns or places to which said roads lead:

*Provided*, That the inhabitants of any town may, at their annual meeting, agree upon some suitable substitute for such guide posts.

§ 110. FORFEIT FOR NEGLECT TO FURNISH GUIDE POSTS.] Every town which neglects or refuses to erect and maintain such guide posts, or some suitable substitute therefor, shall forfeit annually the sum of five dollars for every guide post which it so neglects or refuses to maintain, which sum may be sued for and collected by any person, before any justice of the peace of the proper county, and the moneys so collected shall be paid into the town treasury for the benefit of the roads and bridges of the said town.

#### XXII.—PUBLIC PLACES.

§ 111. VOTERS TO DESIGNATE PUBLIC PLACES.] At the annual town meeting in each year the legal voters present at each meeting shall determine and designate three places in the town as public, or the most public places of such town, and that all legal

notices required to be posted in three public, or the most public places of a town, shall be posted up at such places at least, and they shall make provision for the erection and maintenance of posts on which to post up notices as aforesaid in all places so designated, in which there is no sufficient natural convenience for that purpose.

XXIII.—POUNDS AND POUNDMASTERS.

§ 1 2. POUNDS.] Whenever the electors of any town determine at their annual town meeting to erect one or more *towns* [pounds] therein, the same shall be under the care and direction of such poundmasters as are chosen or appointed for that purpose.

§ 113. DISCONTINUE POUNDS.] The electors of any town may, at any annual town meeting, discontinue any pounds therein.

§ 114. FEES OF POUNDMASTER—SALES, ETC.] The poundmaster is allowed the following fees, to-wit :

For taking into pound or discharging therefrom any horse, ass or mule, and all neat cattle, twenty cents each. For every sheep or lamb, ten cents each ; and for every hog, large or small, ten cents ; and twenty-five cents for keeping each twenty-four hours in pound. And the poundmaster has a lien *on* on all such animals for the full amount of his legal charges and expenses, and shall be entitled to the possession of such animals until the same is paid ; and if the same are not paid and said animals removed within four days after they are impounded, the said poundmaster shall give notice by posting the same in three of the most public places in said town that said animals, (describing them,) are impounded, and that unless the same are taken away and fees paid within fifteen days after the date of such notice, he will sell the same at public vendue, at the place where the town meetings of said town are usually held ; and on the day designated in such notice the said poundmaster shall expose the said animals for sale, and sell the same to the highest bidder in cash, for which service he shall receive two per cent. of the purchase money for each animal. Out of the money realized from said sale the said poundmaster shall deduct all his legal fees and charges and pay the balance if any to the chairman of the town supervisors, at the same time giving to said supervisors an accurate description of the animals sold and the amount received by him for each animal, and shall take a receipt and duplicate therefor and file one of them with the town clerk ;

*Provided*, That the said supervisors shall at any time within six months, upon sufficient proof from the owner of any animal so sold, pay to said owner the balance due as received from said poundmaster ; but if said money is not claimed within that time,

then the sum so received shall be retained for the use of said town.

XXIV.—TOWNSHIP DEBTS AND BONDS.

§ 115. LIMIT OF DEBT.] No town 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, without having been authorized by a majority of the voters of such township, and no town shall assess for township purposes more than ten mills on the dollar of taxable property for any one year.

§ 116. BONDS OF TOWN.] The board of supervisors of the organized townships of this Territory, or those that may hereafter be organized, be and the same are hereby authorized and fully empowered to issue the bonds or orders of their respective towns with coupons attached, in such amounts and at such periods as they may be directed by two-thirds of the legal voters present and voting at any legally called town meeting held for that purpose; such bonds or orders to be payable in such amounts and at such times, not exceeding six years from date, as two-thirds of the legal voters present and voting at such meeting shall determine, with interest thereon not to exceed eight per cent. per annum payable annually; which bonds or orders and coupons shall be signed by the chairman of the board of supervisors and countersigned by the clerk of said town;

*Provided,* That nothing herein contained shall be construed to authorize the issuing of said bonds or orders unless the same shall have first been voted for by ballot by two-thirds of all the legal voters present and voting at any annual town meeting, or special town meeting called for that purpose, notice of which, particularly specifying the object for which such meeting was called, have been posted in at least three public places in said town for not less than ten days previous to the time of calling the same.

§ 117. BONDS TO BE SOLD AT PAR.] No bonds or orders issued under the authority of this act shall be issued or negotiated for less than par value, nor shall said bonds or orders or the proceeds thereof be used or appropriated for any purpose whatever other than specified in this act.

§ 118. LEVYING BOND TAX.] Said board of supervisors and their successors are hereby authorized and it is hereby made their duty, on or before the first day of September next after the date of said bonds or orders, and in each and every year thereafter on or before the first day of September, until the payment of said bonds or orders and interest is fully provided for, to levy and in due form to certify to the auditor or county clerk of the county in which such town is situated, a tax upon the taxable property of

said town, equal to the amount of principal and interest maturing next after such levy, and in the discretion of said board of supervisors, such further sums as it shall deem expedient, not exceeding twenty per cent. of such maturing bonds or orders and interest, which taxes shall be payable in money, and shall constitute a fund for the payment of said bonds or orders and the interest thereon.

#### XXV.—MISCELLANEOUS PROVISIONS.

§ 119. TOWN OFFICER NOT TO HAVE INTEREST IN CONTRACT.] No town officer shall become a party to or interested, directly or indirectly, in any contract made by the board of which he may be a member; and every contract or payment voted for or made contrary to the provisions of this section is void; and any violation of this section hereafter committed shall be a malfeasance in office which will subject the officer so offending to be removed from office.

§ 120. ELECTION DISTRICT.] Each town organized under this chapter, or any law heretofore in force, constitutes an election district.

§ 121. INCORPORATED CITY TO HAVE POWERS OF THIS CHAPTER.] Nothing in this chapter contained shall in any way apply to any portion of the Territory which is embraced within the limits of any incorporated city; but each incorporated city shall have and exercise within its limits, in addition to its powers, the same powers conferred by this chapter upon towns, in the manner prescribed by law.

### CHAPTER II.—ROADS, CARTWAYS AND BRIDGES.

#### I.—PUBLIC HIGHWAYS.

§ 1. WHAT ARE PUBLIC ROADS.] All public roads and highways within this Territory which have been open and in use as such, and included in a road district in the town in which the same are respectively situated during twenty years next preceding the time when this act shall take effect, are hereby declared to be public roads or highways and confirmed and established as such whether the same have been lawfully laid out, established and opened or not.

§ 2. SAME.] Every road laid out by the proper authorities, as provided for in this chapter, from which no appeal has been taken within the time limited for taking such appeal, is hereby declared a public highway to all intents and purposes, and all persons having refused or neglected to take an appeal, as provided for in this chapter, shall forever be debarred from any further redress.

§ 3. CONGRESSIONAL SECTION LINES.] In all townships in this Territory in which no public roads have been laid out, or which have not been organized, the congressional section lines shall be considered public roads, to be opened to the width of two rods on each side of such section lines, upon the order of the board of supervisors, without any survey being had, except where it may be necessary on account of variations caused by natural obstacles, subject, however, to all the provisions of this chapter in relation to assessment of damages.

## II.—ROAD DUTIES OF SUPERVISORS.

§ 4. WHO TO HAVE CARE OF ROADS, ETC.] The supervisors in the several towns in this Territory shall have the care and superintendence of roads and bridges therein, shall give directions for the repairing of the roads and bridges in their respective towns, regulate roads already laid out, and alter each of them, as they, or a majority of them deem proper, as hereinafter provided; divide the respective towns into so many road districts as they deem convenient, by writing under their hands, to be lodged with the town clerk, and by him entered in the town records; such division to be made annually, if they deem it necessary, and in all cases to be made within at least twenty days before the annual town meeting; they shall assign to each of the said road districts such of the inhabitants liable to work on highways, as they think proper, having regard to proximity of residence, and require the overseers of highways, as often as they deem necessary, to warn all persons liable to work on roads, to come and work thereon, with such tools, carriages, cattle or teams as the said overseers, or either of them, shall direct.

§ 5. REPORT OF ROADS.] The supervisors in each town shall render to the annual town meeting an account in writing, stating the labor assessed and performed in such town, the sums received by them for fines and commutation, and all other moneys received under this chapter; a statement of the improvements necessary to be made on the roads and bridges, and an estimate of the probable expense of making such improvements beyond that of the labor to be assessed in that year, that the road tax will accomplish; also a statement in writing of all expenses and damages in consequence of laying out, altering or discontinuing roads.

## III.—DUTIES OF OVERSEERS OF HIGHWAYS.

§ 6. DUTIES.] The overseers of highways in each town shall repair and keep in order the roads within their respective districts; warn all persons from whom labor is due to work on highways at such times and places within their several districts as they may

think proper; collect all fines and commutation money, execute all lawful orders of the supervisors, and deliver to the town clerk within sixteen days after election or appointment, a list, subscribed by such overseer, of the names of all the inhabitants in his road district who are liable to work on the highways.

§ 7. WHEN OVERSEER TO BE APPOINTED.] If any person chosen or appointed to the office of overseer of highways refuses to serve, or if his office becomes vacant, the supervisors of the town shall by warrant under their hands, appoint some person in his stead, and the overseer so appointed shall have the same powers, subject to the same orders, and liable to the same penalties as overseers chosen at town meetings.

§ 8. NOTICE.] The supervisors making the appointment, shall cause such warrant to be forthwith filed in the office of the town clerk, who shall give notice to the person appointed as in other cases.

§ 9. PENALTY FOR NEGLECT TO PERFORM DUTIES.] Every overseer of highways who refuses or neglects to perform any of the duties of this chapter, or which may be lawfully required of him by the supervisors of his town, shall for every such refusal or neglect, forfeit the sum of ten dollars to be sued for by the chairman of the board of supervisors of the town, and when recovered, to be applied by him in making and improving the roads and highways therein.

#### IV.—HIGHWAY LABOR AND ROAD TAX.

§ 10. MEETINGS OF SUPERVISORS.] The supervisors of each town shall meet at the town clerk's office within eighteen days after they are chosen, on such day as they agree upon, and afterwards at such other time and places as they think proper.

§ 11. MAKE ESTIMATE OF LABOR.] The town clerk shall deliver the list filed by the overseers to the supervisors, who shall proceed to ascertain, estimate and assess the highway labor and road tax to be performed and paid in their town the next ensuing year.

§ 12. WHO LIABLE TO LABOR.] Every male inhabitant being above twenty-one years and under the age of sixty, excepting paupers, idiots, lunatics, and such others as are exempt by law shall be assessed not less than one day nor more than four days in each year. Supervisors shall assess a road tax on all real estate and personal property liable to taxation of the town to any amount they may deem necessary not exceeding one dollar on each one hundred dollars of value as valued on the assessment roll of the preceding year. They shall affix the name of each person named in the list so furnished by the overseers, the number of days assessed to each person for highway labor, and also a description



of each tract of land, and the name of the owner, if known, with the valuation thereof, as taken from the assessment roll of the previous year, and the amount of road tax assessed thereon, in a separate column; the list so prepared shall be signed by the supervisors and deposited with the town clerk to be filed in his office.

§ 13. HIGHWAY TAX LIST.] The supervisors shall also place on the land road list, the names of all persons against whom road tax on personal property only has been assessed, and place in a separate column opposite the name of each person on the list the amount of road tax assessed on personal property, which amount shall be subject to collection or commutation by labor, the same as land road tax assessed on real estate.

§ 14. COPY TO BE FURNISHED.] The supervisors shall direct the town clerk to make a certified copy of each list, after which the town clerk shall deliver the several copies to the respective overseers of highways of the several districts in which highway labor is assessed, for which he shall receive a fee of twenty-five cents for each copy so delivered. One copy for each overseer shall contain the name and number of days assessed to each person, the other the land and personal property road tax.

§ 15. OVERSEER TO ADD CERTAIN NAMES.] The overseers of highways shall add the names of persons left out of such list, and of new inhabitants, and they shall be rated in the same proportion to work on the highways as others are rated by the supervisors on such list.

§ 16. NOTICE.] Overseers of highways shall give at least three days notice to all persons assessed to work on highways, and living within the limits of their respective districts, of the time and places when and where they are to appear for that purpose and with what implements; but no person being a resident of the town shall be required to work on any highway other than in his own district in which he resides, but may elect to pay any land road tax in labor in the district in which said land is situated, and shall be allowed one dollar and fifty cents for himself and a like amount for the use of his team and wagon, or plow; such labor shall be at the disposition of the overseer of their respective districts.

§ 17. POWERS OF OVERSEER.] Road overseers have power, and it is hereby made their duty, whenever any public highway becomes obstructed or unsafe from any cause whatever, to call upon any or all persons liable to poll tax in his district to come forth with such tools or teams as the overseer may direct, and work upon such highway in removing obstructions or repairing dangerous places, and for all such labor performed under the directions of the overseers by any person in excess of road tax assessed against

him for the year, the road overseer shall give a receipt, stating the value of such labor, and said receipt shall be received in payment of any road tax due from any person to said district in that or any succeeding year, and any road overseer who fails to perform his duty, as required by law, shall be subject to prosecution therefor by the supervisors of this town, and upon conviction therefor, shall be liable to a fine of not less than five nor more than fifty dollars, and justices of the peace shall have jurisdiction, upon complaint made on oath, to hear and determine all causes arising under this section.

§ 18. COMMUTATION OF ROAD LABOR.] Every person liable to work upon the highways shall work the whole number of days for which he is assessed, but every such person other than the overseer of highways may elect to commute for the same, or for some part thereof, at the rate of one dollar and fifty cents per day, in which case such commutation money shall be paid to the overseer of highways of the district in which the person commuting shall reside, to be applied and expended by the overseer in the improvement of the roads and bridges of the same district. Overseers of highways, when such land tax is paid either in money or labor, shall write the word "paid" against such name or tract of land in their list on which the same is paid.

§ 19. PAYMENT.] Every person intending to commute for his assessment, or any part thereof, shall, within two days after he is notified to appear and work on the highways, pay the commutation money for the work required of him by such notice, and the commutation shall not be considered as made until such money is paid.

§ 20. POWER OF OVERSEER.] Every overseer of highways has power to require a team or cart, wagon or plow, with a pair of horses or oxen and a man to manage them, from any person having the same within his district.

§ 21. SUBSTITUTE.] Every person assessed to work on the highways, and warned to work, may appear in person or by an able-bodied man as a substitute, and the person or substitute so appearing shall actually work ten hours in each day, under a penalty of fifteen cents for every hour such person or substitute *or person* is in default, to be imposed as a fine on the person assessed.

§ 22. FINE FOR NEGLECT.] Every person so assessed and duly notified, who does not commute, and who refuses or neglects to appear as above provided, shall be fined for every day's refusal or neglect, the sum of two dollars. If he was required to furnish a team, carriage or implements, and refused or neglected so to comply, he shall be fined as follows:

For wholly omitting to comply with such requisition, four dollars for each day.

For omitting to furnish a cart, wagon, or plow, one dollar for each day.

For omitting to furnish a pair of horses or oxen, one dollar and fifty cents for each day.

For omitting to furnish a man to manage the team, one dollar and fifty cents for each day.

§ 23. WHEN SUPERVISOR TO MAKE COMPLAINT.] Every overseer of highways, within nine days after any person, so assessed and notified, is guilty of any refusal or neglect for which a penalty or fine is prescribed in this chapter, unless satisfactory excuse is rendered to him for such refusal or neglect, shall make complaint to one of the justices of the peace of the town or an adjoining town.

§ 24. DUTY OF JUSTICE.] The justice to whom such complaint is made, shall forthwith issue a summons directed to any constable of the county, requiring him to summon such delinquent to appear forthwith before such justice, at some place to be specified in the summons, to show cause why he should not be fined according to law for such refusal or neglect, which summons shall be served personally.

§ 25. FINE.] If upon the return of such summons no sufficient cause is shown to the contrary, the justice of the peace shall impose a fine as provided in this chapter, for the offense complained of, and shall forthwith issue a warrant under his hand, directed to any constable of the county in which such delinquent resides, commanding him to levy such fine, with the cost of proceedings, on the goods and chattels of the delinquent, and no other property shall be exempt therefrom.

§ 26. FINE, HOW DISPOSED OF.] The constable to whom such warrant is directed, shall forthwith collect the moneys therein mentioned. He shall pay the fine when collected, to the justice who issued the warrant, who is hereby required to pay the same to the overseer who entered complaint, to be by him expended in improving the roads and bridges in his district.

§ 27. OVERSEER CANNOT EXCUSE.] The acceptance by an overseer of any excuse for refusal or neglect, shall not in any case exempt the person excused for commuting for or working the whole number of days for which he is assessed during the year.

§ 28. COMPENSATION OF OVERSEER.] Every overseer of highways is entitled to two dollars per day, to be paid out of the fines and commutation money, for every day he is necessarily employed in the execution of his duties as overseer. When there are no funds from fines or commutations, the supervisors may pay the

overseers out of any funds in their hands raised for the purpose of repairing and making roads and bridges.

§ 29. ROAD SUPERVISOR TO RETURN TAX LIST.] Every overseer of highways shall deliver to the town clerk of his town, on or before the first day of October in each year, the list furnished by the supervisors, containing the land and personal property road tax with his certificate thereon, that all taxes in said list opposite which the word "paid" is not written, are due and unpaid, according to the best of his knowledge and belief.

§ 30. PENALTY FOR REFUSAL.] If any overseer refuses or neglects to deliver such list, with his certificate, as provided in the last section, he shall for every offense forfeit the sum of five dollars and also the amount of tax remaining unpaid, to be recovered by the supervisors of such town, and applied by them in improving roads and bridges of such town.

§ 31. TOWN CLERK TO MAKE OUT DELINQUENT LIST.] The town clerk of each of the several towns shall receive the lists returned by the overseers of highways pursuant to section twenty-nine (29), and keep the same on file in his office, and shall make out and deliver to the auditor or county clerk of the county, on or before the first day of November in each year, a list containing a description of each tract or parcel of land on which the tax is delinquent, together with the name of the owner, if known, and if unknown, so state, and the amount of tax due and remaining unpaid on each, and containing all of the unpaid road taxes levied upon personal property according to the lists on file in his office, and shall make his certificate thereon to the effect that the same is a correct list of delinquent road taxes for the year therein stated, as appears from the several lists returned by the overseers of highways, and on file in his office; and it is hereby made the duty of the county auditor or county clerk to extend such unpaid taxes upon the tax lists of the current year, to be collected in the same manner as other taxes. Such road tax, when collected, shall be paid to the town treasurer of the proper town upon the proper certificate of the auditor or county clerk of the county, and shall be applied by the supervisors of the town in the construction or repair of roads and bridges, to be paid by the town treasurer upon the order of the supervisors.

§ 32. DUTY OF ROAD SUPERVISOR.] It shall be the duty of every overseer of highways to have at least three fourths of the road labor assessed in his district worked out or actually expended on the highways previous to the first day of August in each year.

§ 33. ROAD SUPERVISOR'S REPORT.] Every overseer of highways shall, on the second Tuesday next preceding the time of holding the annual town meeting in his town within the year for

which he is elected or appointed, render to one of the supervisors of the town an account in writing, containing:

First The names of all persons assessed to work on the highways in the district in which he is overseer.

Second—The names of all those who have actually worked on the highway, with the number of days they have worked.

Third—The names of all those who have been fined, and the sums in which they have been fined.

Fourth—The names of all those who have commuted, and the manner in which the moneys arising from fines and commutations have been expended by him.

§ 34. PAY OVER MONEYS.] Every such overseer shall then and there pay to the supervisors all moneys remaining in [his] hands unexpended, to be applied by the supervisors on the roads and bridges in the town.

§ 35. PENALTY FOR REFUSAL.] If any overseer refuses or neglects to render such account, or if having rendered the same he shall refuse or neglect to pay any balance which may be due from him, he shall for every such offense forfeit the sum of five dollars, to be recovered with the balance of the moneys remaining in his hands, by the supervisors of the town, and applied to the improvement of the roads and bridges in such town.

#### V.—ALTERING, DISCONTINUING AND LAYING OUT ROADS.

§ 36. LAYING OUT ROADS.] The supervisors of the town may alter or discontinue any road, or lay out any new road upon the petition of not less than six legal voters, who own real estate, or who occupy real estate under the homestead or pre-emption laws of the United States, or under contract from the Territory of Dakota, within one mile of the road to be altered, discontinued or laid out; said petition shall set forth in writing a description of the road, and what part thereof is to be altered or discontinued, and, if for a new road, the names of the owners of the lands, if known, over which the road is to pass, the point at which it is to commence, its general course, and the point where it is to terminate:

*And, provided further,* That all roads or parts thereof heretofore or hereafter laid out by township supervisors and not opened to public use within ten (10) years from the time they were laid out, are hereby declared vacant.

§ 37. COPY OF PETITION TO BE POSTED.] Whenever any number of legal voters, as aforesaid, determine to petition the supervisors for the alteration or discontinuance of any road, or of laying out any new road, they shall cause a copy of their petition to be

posted up in three of the most public places of the town twenty days before any action is had in relation thereto.

§ 38. NOTICE TO ALL PARTIES TO BE GIVEN.] Whenever the supervisors receive a petition in compliance with the preceding sections for laying out, altering or discontinuing any highway, they shall, within thirty days, make out a notice and fix therein a time and place at which they will meet and decide upon such application, and the applicant shall, at least ten days previous to that time, cause such notice to be given to all occupants of the land through which such highway may pass, which notice shall be served personally or by a copy left at the abode of each occupant. The supervisors shall also cause copies of such notice to be posted in three public places in said town, at least ten days previous to such meeting; every such notice shall specify, as near as practicable, the highway proposed to be laid out, altered or discontinued, and the several tracts of land through which the same may pass.

§ 39. EXAMINATION OF HIGHWAY.] The supervisors upon being satisfied that the notices required in the preceding section have been duly served, proof of which shall be shown by affidavit, shall proceed to examine personally such highway, and shall hear any reasons for or against the laying out, altering or discontinuing the same, and shall decide upon the application as they deem proper.

§ 40. PROCEEDINGS WHEN ROAD IS LAID OUT, CHANGED OR DISCONTINUED.] Whenever the supervisors shall lay out, alter or discontinue any highway, they shall cause a survey thereof to be made when necessary, and they shall make out an accurate description of the highway so altered, discontinued or laid out and incorporate the same in an order to be signed by them, and shall cause such order, together with all the petitions and affidavits of service of notices, to be filed in the office of the town clerk, who shall note the time of filing the same, but on the refusal of the supervisors to lay out, alter or discontinue such road, they shall note the fact on the back of the petition, and file the same as aforesaid. All orders, petitions and affidavits, together with the award of damages, shall be made out and filed within five days after the date of the order for laying out, altering or discontinuing such highway. But the town clerk shall not record such order within thirty days, nor until a final decision is had, and not then unless such order is confirmed. And after such order is confirmed, and such order, together with the award, has been recorded by such town clerk, the same shall be sent by him to the county auditor or county clerk, who shall file and preserve all such papers thus transmitted to him. And in case the supervisors shall fail to file such order within twenty days, they shall be deemed to have decided against such application.

§ 41. ORDER, COMPETENT EVIDENCE.] The order laying out, altering or discontinuing any highway, or a copy of the record duly certified by the town clerk, shall be received in all courts as competent evidence of the facts therein contained, and shall be *prima facie* evidence of the regularity of the proceedings prior to the making of such order, except in cases of appeal when such appeal has been taken within the time limited in this chapter.

§ 42. DAMAGES.] The damages sustained by reason of laying out, altering or discontinuing any road, may be ascertained by the agreement of the owners and supervisors, and unless such agreement is made, or the owner shall, in writing, release all claim to damages, the same shall be assessed in the manner hereinafter prescribed, before the same is opened, worked or used. Every agreement and release shall be filed in the town clerk's office, and shall forever preclude such owners of lands from all further claim for damages. In case the supervisors and the owners of land claiming damages cannot agree, or if the owner of any land through which any highway shall be laid out, altered or discontinued, is unknown, the supervisors shall, in their award of damages, specify the amount of damages awarded by them to all such owner or owners, giving a brief description of such parcel of land in their award; the supervisors shall assess the damages at what they deem just and right to each individual claimant with whom they cannot agree and deposit a statement of the amount of damages so assessed to each individual, with the town clerk, who shall note the time of filing the same. The supervisors in all cases of assessing damages shall estimate the advantages and benefits the new road or alteration of an old one will confer on the claimant for the same as well as the disadvantages. Any person living on United States land who has made his declaratory statement for the same in the proper land office, shall for all the purposes of this act be considered the owner of such land.

§ 43. WHEN DAMAGES NOT ALLOWED.] No damages shall be assessed or allowed under the provisions of this chapter to any person, persons or corporation, by the reason of laying out any new road or altering any old one, when the title of the land over which such road passes was vested in the Territory or the United States at the time of the location of such road, excepting as otherwise provided in this chapter.

§ 44. SUPERVISORS DETERMINATION FINAL.] The determination of the supervisors of any town in refusing to lay out, alter or discontinue any highway shall be final (unless such determination shall be appealed from as provided in this act) for the term of one year after the filing of such order or determination in the town clerk's office; and no application for laying out, altering or dis-

continuing any such highway shall again be acted upon by such within said term of one year, and in case the determination of the supervisors of any town, in laying out, altering or discontinuing any highway, shall be appealed from, as provided in this chapter, and such determination shall be reversed on such appeal, the said supervisors shall not, within one year after the making of the determination reversed on such appeal, act again upon an application to lay out, alter or discontinue any such highway.

§ 45. NOTICE TO PARTY OWNING PREMISES.] Whenever the supervisors or commissioners have laid out any public road through any inclosed, cultivated or improved lands, in conformity with the provisions of this chapter, and their decision has not been appealed from, they shall give the owner or occupant of the land through which the road is laid, twenty days' notice in writing to remove his fences; if such owner does not remove his fences within twenty days the supervisors shall cause such fences to be removed and direct the road to be opened and worked;

*Provided*, That no inclosure shall be ordered open between the first day of April and the first day of October.

#### VI.—TOWN LINE ROAD.

§ 46. OF ROAD BETWEEN TOWNS.] Whenever the supervisors of any town receive a petition praying for the location of a new road, or the altering or discontinuing of an old one, on the line between two towns, such road shall be laid out, altered or discontinued by two or more of the supervisors of each of said towns, either on such line or as near thereto as the convenience of the ground will admit, and they may so vary the same to one side or the other of such line as they think proper.

§ 47. ROAD DISTRICTS ON TOWN LINE ROAD.] The supervisors, when there may be such highways, shall divide such highway into two or more road districts, in such manner that the labor and expense of opening, working and keeping in repair such highways through each of said districts may be equal, as near as may be, and shall allot an equal number of such districts to each of said towns.

§ 48. DISTRICTS, WHERE BELONGING.] Each district shall be considered as belonging wholly to the town to which it may be allotted for the purpose of opening the road and keeping it in repair; and the supervisors shall cause such highway and the petition and the allotment thereof to be recorded in the office of the town clerk in each of said towns.

§ 49. TOWN LINE ROADS ALREADY LAID.] All roads heretofore laid out on the line between any two towns, shall be divided, allotted, recorded and kept in repair in the manner above directed.



§ 50. APPEAL.] The decision of the supervisors in relation to town-line roads may be appealed from in the same manner as provided for in this chapter for appeals from the decisions of supervisors in relation to town roads.

#### VII.—PUBLIC CARTWAYS.

§ 51. WIDTH OF ROADS AND CARTWAYS.] All public roads to be laid out by the supervisors or county commissioners shall not be less than four rods wide, and may be six rods in width when all residents of land adjoining said road shall petition for the same; and that when any road or portion thereof shall have been used and kept in repair and worked for twenty years continuously as a public highway, the same shall be deemed as having been dedicated to the public, and be and remain until lawfully vacated a public highway, whether the same has ever been laid out as a public highway or not. That the supervisors of the several towns have power to lay out public cartways two rods wide when petitioned by five residents, freeholders of said town, desiring the same. The cost of surveying and locating such cartways shall be paid by the town as provided by law in the laying out of public roads, and the damages to lands through or upon which cartways may be laid out shall be paid by the town. And the damages in this section mentioned shall be assessed and an appeal had, in the same manner as in the case of other public roads, and the town clerk shall record any cartways so laid out in the same manner and with like effect as other roads are required to be recorded by him;

*Provided, however,* That when the petitioners or any of them propose in the petition their willingness to dedicate any land to which such petitioner has title for the purposes of such cartway, such lands shall be deemed as so dedicated, and no damages shall be assessed therefor; that such cartway when so laid out and established shall be deemed a public cartway for public use.

§ 52. LABOR ON CARTWAYS.] The town supervisors of this Territory of their respective towns may in their discretion allow any owner or owners of cartways duly and legally established, or hereafter to be laid out by proper authority, to perform his or their highway labor and poll tax, or either, upon said cartway or cartways. And said supervisors in their discretion in all cases where any such cartway exceeds one mile in length, may expend upon such cartway any highway labor, poll tax, road tax, road or bridge money, the same as upon any highway in said town.

#### VIII.—ROADS IN CITIES.

§ 53. POWERS OF CITY AUTHORITIES.] The same powers and duties in and by this chapter conferred and imposed upon town

supervisors, are also conferred and imposed upon the city councils of the several cities throughout this Territory, and in addition it shall be the duty of the city council to appoint some qualified elector of each road district in the city to be overseer of roads for such district, and the overseers of roads, city clerks, justices of the peace and the constables of the several cities of this Territory shall exercise the same powers and perform the same duties, and be subject to the same liabilities as are in and by this chapter conferred and imposed upon the town overseers of roads, clerks, town justices of the peace and town constables, and all the provisions of this chapter shall be applicable to the several cities in this Territory, unless otherwise provided for in their several charters, subject, however, to the reservation made in the succeeding section in regard to incorporated cities.

#### IX.—COUNTY ROADS.

§ 54. PROCEEDINGS FOR COUNTY ROADS.] If twenty-four freeholders of any county containing one hundred or more legal voters, and twelve freeholders of any county containing less than one hundred legal voters, petition the board of commissioners of such county for the location, establishment, change or vacation of any highway running into more than one town of said county, and not within the limits of any incorporated city, whether such highway is connected or to be connected with other roads or not, setting forth in such petition the beginning, course and termination of the highway proposed to be located, established, changed or vacated, together with the names of the owners of the lands, if known, through which the same may pass, the auditor or county clerk of such county shall lay such petition before the board of county commissioners at their next session thereafter.

§ 55. DUTY OF COMMISSIONERS.] When the board of county commissioners to whom such petition is presented are satisfied that at least thirty days' notice has been given, before the session of said board at which such petition is to be heard, by posting up notices in three public places in each of the towns through which such highway is proposed to be located, changed or vacated, the board of commissioners shall appoint from the members thereof a committee to examine such proposed location, establishment, change or vacation, and the board, if necessary, shall designate a time when and a place where such committee will meet upon such route.

§ 56. EXAMINATION OF PROPOSED ROAD.] At the time and place designated such committee shall meet and proceed to examine the highway proposed to be located, changed or vacated, and in such examination may employ a competent surveyor.

§ 57. REPORT OF COMMITTEE.] After such committee have completed their examination they shall make a report of their proceedings, setting forth the highway proposed to be located, established, changed or vacated, by course and distance, and recommending therein according to the opinion of the majority, either that the prayers of the petitioners be granted or rejected, a copy of which report shall be returned to the board of commissioners at their next session thereafter.

§ 58. DUTY OF COMMISSIONERS ON REPORT.] At the next meeting of the board of commissioners they shall proceed to determine the prayer of such petition, and such board shall declare it granted if a majority of the board so agree, and shall direct the auditor or county clerk to notify the supervisors of the several towns in which such road is to be located or established, or change or vacation is made, when such supervisors will cause to be opened so much of such highway as lies in their respective towns;

*Provided*, That all damages sustained by reason of laying out or altering any county road shall be assessed by the county commissioners laying out such road, and paid by the county.

§ 59. REMONSTRANCE—DAMAGES.] If at the session of the board of commissioners at which the report of the road committee appointed to examine such highway is presented any person over whose land such road passes shall remonstrate against granting the prayer of the petition, setting forth in writing that he is damaged in a sum mentioned by the location, change or vacation of such highway, to the truth of which he takes and subscribes an oath, such board shall determine from the face of the report and the evidence before them, the amount of damages sustained, and whether the damages so assessed are greater than the utility of the proposed highway or change, and if they deem the road of sufficient advantage to the county to warrant the paying of the damages assessed by the board they shall declare such highway located, changed or vacated, and all damages declared assessed shall be paid by the county interested; but if they shall determine that the damages assessed are greater than the advantages of the proposed location or change, they shall order the petition dismissed.

§ 60. COUNTY OR TERRITORIAL ROAD DEFINED.] Every road located by territorial or county authority is a county road, and shall only be changed or vacated by an order of the county commissioners, as provided for in this chapter. All damages claimed in the location of any Territorial road through any of the organized counties of this Territory, shall be determined by the provisions of this chapter the same as in the location of a county road, and the organized counties through which any Territorial road is located shall be liable for such damages.

§ 61. ROAD TAXES—MAXIMUM.] The county commissioners have general supervision of county roads, and have power to appropriate such sums of money from the county treasury as they think advisable, for opening, vacating, re-surveying or otherwise improving such roads, not exceeding in any one year the sum or ratio of \$1,000 to each \$500,000 of assessed valuation of real estate in such county;

*Provided,* That additional sums may be appropriated, but shall not be expended except upon ratification thereof by a vote of the people, to assist in building bridges and opening and repairing county roads, to be expended under their direction;

*Provided, further,* That the towns through which any county road may pass, shall keep such road in repair, the same as other roads in their towns.

§ 62. SIDE ROADS AND FORDS.] The board of county commissioners of each county in this Territory shall have power and authority to lay out and establish side roads and ford crossings, near or adjacent to any bridge forming part of any county or town road over any stream of water in their county; said side road on each side of said stream of water to intersect with the adjacent road at the nearest practicable point. In the laying out and establishing such side road and ford crossings the same proceeding shall be had in all respects, including the assessment and payment of damages, as are required by law in laying out and establishing county roads;

*Provided,* That this act shall not authorize the laying out and establishing side roads or ford crossings near or adjacent to any bridge, the cost of which was less than one thousand dollars.

§ 63. DAMAGES.] The county commissioners in cases of county roads, and the town supervisors in cases of town roads, may assess and allow damages on application in cases where roads have been previously laid out and no damages have been assessed or allowed or release given, if they consider such assessment just and right;

*Provided, however,* That no damages shall be allowed or paid unless application for such damages shall have been made within three years from the date of the laying of such roads.

#### X.—JUDICIAL DISTRICT ROADS.

§ 64. JUDGES TO APPOINT VIEWERS.] Whenever a petition praying that a road be laid through two or more counties in any judicial district in this Territory, signed by twenty legal voters, resident in said counties, shall be presented to the judge of the district court, the said judge is hereby authorized to appoint three commissioners, whose duty it shall be to meet at such times and places as may be necessary, and to immediately proceed to lay

out a road as directed by the judge, in accordance with the prayer of the petition ;

*Provided*, That no road shall be ordered by any judge to extend more than six miles outside the judicial district in which the application is made, and such road shall be extended beyond the district only for the purpose of commencing or ending at some village or public road.

§ 65. POSTING NOTICE.] Notices of the presentation of any such petition as that mentioned in the preceding section, to any district judge, shall be posted at least thirty days prior to such presentation, in at least three of the most public places in said judicial district, and there shall be one of said notices posted at each county seat of the counties through which the road prayed for is to pass.

§ 66. ASSISTANCE IN LAYING OUT ROAD.] The commissioners shall appoint a surveyor, one axeman and two chainmen to make a survey of such a road. The compensation of the commissioners shall be three dollars each per day, and that of surveyor shall be four dollars per day, and the axemen and chainmen shall each receive two dollars per day, such compensation to be paid only for the time the parties are actually engaged in making such survey. The damages incurred and the compensation to be paid to the persons over whose land such road shall be laid out, by reason of the laying out of the same, shall be assessed and determined by said commissioners, and the expense of such survey and the damages and compensation to be paid for right of way, shall be paid by the counties through which said road is laid, without regard to the length located in each county, each county paying therefor its just proportion, and such proportion shall be entirely in the discretion of the court, and shall be by said court determined, regard being had to the benefits to be derived from said road by the different counties through or into which it shall pass. Stakes shall be placed at the starting point which shall be on said public road, and at each of the angles of the road. Witness trees shall be marked wherever stakes are placed ;

*Provided*, That where there are no trees, monuments shall be erected.

§ 67. SURVEYOR TO MAKE PLATS.] The surveyor shall follow the lines of the United States surveys where practicable, and shall make two or more plats of the location of such road, in which the county lines and all stakes, trees and monuments, together with the distances, shall be written, and said surveyor shall forward one of such plats to the register of deeds of each county through which said road is located, and such plats shall be placed on file by such registers of deeds, and be part of the records of their

office. The surveyor shall receive two dollars for each plat so made and forwarded by him as aforesaid.

§ 68. REPORT TO DISTRICT COURT.] The commissioners appointed as herein provided shall make a report of all proceedings had by them under this act to the term of the District Court held in the county next after the completion of their duties, and any person feeling aggrieved may appear and be heard thereat. The confirmation of the report of the commissioners by the judge of the district court shall in all cases be final.

#### XI.—ROAD APPEALS.

§ 69. APPEALS.] Any person who shall feel himself aggrieved by any determination or award of damages made by the supervisors of any town or towns, or by the commissioners of any county, either in laying out, altering or discontinuing, or in refusing to lay out, alter or discontinue any highway, or cartway, may, within thirty days after the filing of such determination or award of damages, as provided in this act, appeal therefrom to a justice of the peace of the county for a jury to hear and determine such appeal:

*Provided,* The amount of damages allowed in such appeal does not exceed \$100.

§ 70. BOND, INSURANCE, ETC.] Every application to a justice of the peace for an appeal shall be in writing, and shall briefly state the grounds on which it is made, and whether it is brought in relation to damages assessed, or in relation to laying out, altering or discontinuing, or refusal to lay out, alter or discontinue any highway, or whether it is brought to reverse entirely the decisions of the supervisors or commissioners, or any part thereof—if the latter, what part. Upon filing such application and a bond executed to the supervisors of the town, or the commissioners of the county, with sufficient sureties, to be approved by the justice, conditioned to pay all costs arising from such appeal, provided that the determination of the supervisors or the county commissioners (as the case may be) shall be sustained, such justice shall issue a summons specifying therein a time and place for the hearing of such appeal, which summons shall be served on one or more of the supervisors (or commissioners, if a county road) at least six days before such time, and at the time and place so appointed, the justice shall proceed as in other cases of trial by jury. If upon the trial it is deemed necessary by the jury, or either party in the action, that a personal examination by the jury of the road in controversy is necessary, the justice may on motion of the jury or either party in the action, direct the jury to view and examine the highway described in the application, and consider the determination of the supervisors or commissioners in laying

out, altering or discontinuing, or refusing to lay out, alter or discontinue the same, and to make return to him in writing within ten days.

§ 71. FILING RETURN, COSTS, ETC.] The justice shall file the the return of the jury in the office of the town clerk, if the appeal was taken from the decision of the board of supervisors of the town, and in the office of the county auditor if the appeal was taken from the decision of the county commissioners; and if the determination of the supervisors or commissioners shall be affirmed by the jury, the party appealing shall pay all costs, but if such determination shall be reversed or altered, or a greater amount of damages awarded, then the costs in the case shall be a charge against the town or county, as the case may be.

§ 72. WHEN APPEAL TO BE TAKEN TO DISTRICT COURT.] In case the amount of damages claimed exceed one hundred dollars, appeal may be taken within thirty days to the District Court of the county in which said damages are sustained, by filing in the office of the clerk of such court a bond, to be approved by the judge of such district court, or the court commissioner, or the county auditor of the county, of the same nature, as provided in the two preceding sections of this chapter, and by the service of a written or printed notice of such appeal upon the chairman of the board of supervisors or county commissioners, as the case may be, signed by the party making the appeal, or his attorney. Such appeal shall bring before the appellate court the propriety of the amount of damages, and all matters referred to in such notice of appeal. Unless the parties otherwise agree the matter shall be submitted to a jury and tried as other appeal cases are tried, and the court or jury, as the case may be, shall re-assess the damages aforesaid, and make the verdict conform to the justice and facts in the case; but the rule for ascertaining and fixing such judgment shall be based upon the same principles as the supervisors or commissioners were required to adopt in originally determining the same, and upon judgment being rendered the clerk of said court shall serve a certified transcript of such judgment upon the chairman on whom the notice of appeal was served as aforesaid. If the determination of the board of supervisors or commissioners appealed from be affirmed, or if the amount of damages allowed be reduced in said District Court, the party appealing shall pay all costs and disbursements incurred in said court, but if the amount of damages allowed be increased, or if such determination shall be altered, modified or reversed in said District Court, otherwise than as to the amount of damages, said costs and disbursements shall be paid by the town or county, as the case may be, said costs and disbursements to be taxed and adjusted as in other cases in said District Court, and judgment entered therefor in like manner.

§ 73. WHEN APPEAL SUSTAINED, DUTY OF BOARD.] When an appeal shall have been made from the determination of any board of supervisors or county commissioners, and such determination shall have been reversed or altered, the supervisors or commissioners from whose determination such appeal was taken shall proceed to lay out, alter or discontinue such highway, in conformity with the decision of such appeal, and the proceedings thereon shall be the same as if they had originally so determined to lay out, alter or discontinue such highway. The amount of damages finally determined and awarded, whether by the supervisors, or by the court and jury, together with all the charges of officers and other persons necessarily employed in laying out, altering or discontinuing any town road, shall be audited by the supervisors, specifying the amount of damages and charges due each individual, and the respective amount shall be certified to by the said supervisors and by them deposited with the town clerk and paid by the town. Before any road shall be opened or used, an amount of town orders, equal to the damages assessed to each individual, shall be duly issued and deposited with said town clerk for the use and benefit of said individual, and shall be delivered to him upon demand. The issuing and depositing of said orders shall be deemed to be sufficient security for the payment of said damages. In no case shall a town be compelled to pay any damages that may be awarded in laying out and altering or discontinuing any county road.

#### XII.—OBSTRUCTING HIGHWAYS.

§ 74. PENALTY FOR OBSTRUCTING HIGHWAYS.] Whoever at any time obstructs any of the public highways in this Territory in any manner with intent to prevent the free use thereof by the public, or whoever shall do, or cause to be done, any planting or plowing thereon within the width of one full rod on each side of the center line of said highway, shall be subject to a fine of not less than five nor more than twenty-five dollars, together with the costs attending such conviction, and on failure to pay such fine and cost, may be committed to the county jail, there to remain until such fine and costs are paid, or until discharged according to law; and it is hereby made the duty of the board of supervisors of the several towns in this Territory to make complaint and prosecute in their official capacity all violations of the provisions of this section.

§ 75. JURISDICTION OF JUSTICES.] Justices of the peace shall have jurisdiction, on complaint made on oath, to hear and determine all cases arising under the preceding section.

§ 76. FINES, HOW DISPOSED OF.] All fines recovered under the provisions of this chapter shall be paid into the treasury of the



town wherein the offense was committed to be used in repairing the public highways within such town.

#### XIV.—BRIDGE PENALTIES.

§ 77. NOTICES ON BRIDGES.] It shall be the duty of the county commissioners of each and every county in this Territory to cause notices to be posted at both ends of all bridges in their respective counties, where the span of such bridge shall be fifty feet or more, stating the number of cattle, horses or other animals that may be driven on to or across said bridge at any one time.

§ 78. DRIVING CATTLE ON BRIDGES.] Any person or persons driving or having charge of any drove of cattle, horses or other animals, who shall drive or permit more of said animals to enter upon or cross said bridge at one time than is specified in said notices provided for in section two, (86) [77] of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court having jurisdiction, shall be fined in any sum not exceeding one hundred dollars nor less than ten dollars.

§ 79. PENALTY FOR DRIVING ACROSS BRIDGE FASTER THAN A WALK.] Whoever drives or rides upon any bridges belonging to any incorporated bridge company, or upon any bridge which has been or may be erected by any county or town, or upon any bridge which has been or may be erected by any individual, and upon which the notice hereinafter prescribed is conspicuously displayed, faster than a walk, shall forfeit and pay for the use and benefit of the county wherein such bridge is located, in whole or in part, as a penalty therefor, the sum of not less than five nor more than ten dollars for each and every such offense.

§ 80. PROCEEDINGS ON COMPLAINT.] Upon complaint made to any justice of the peace in any county where such bridge is located in whole or in part, that any such offense has been committed, the said justice shall issue his warrant reciting the substance of the complaint, requiring the officer to whom it is directed forthwith to arrest the accused and bring him before such justice, or some other justice of the same county, to be dealt with according to law. If the name of the person committing the offense is not known to the complainant or the justice, the complainant may give the justice such description as may enable the person accused to be identified, and the warrant shall recite such description and shall justify the officer to whom it is directed in arresting the person prescribed and bringing him before the justice.

§ 81. UPON CONVICTION, JUDGMENT.] In all cases of conviction under the provisions aforesaid the justice shall enter judgment for the fine and costs against the defendant, and may commit him until the judgment is satisfied, or issue execution upon the judgment to the use of the county.

§ 82. FINE IMPOSED ONLY WHEN NOTICE POSTED.] No fine shall be imposed under the provisions aforesaid, unless there was at each end of said bridge, at the time when such offense was committed, a conspicuous signboard upon which was printed the following words and figures: Ten dollars fine for riding or driving on this bridge faster than a walk.

§ 83. PENALTY FOR RUNNING TOLL GATE.] When any bridge or ferry company, or individual is authorized by law to collect toll for the crossing of any bridge or ferry belonging to such company or individual, any person who willfully runs the toll gate of such company or individual and passes over such bridge or ferry with the intention of avoiding the payment of the toll prescribed by law, or who refuses to pay such toll when thereto lawfully requested, shall forfeit and pay, for the use and benefit of the county wherein such bridge or ferry is located, a fine of five dollars for each and every such offense, which fine shall be prosecuted and collected, together with the costs, in the same manner as the penalties prescribed in the preceding section.

#### XV.—WATERING PLACES ON HIGHWAYS.

§ 84. WATERING TROUGH BOUNTY.] Any person in any city, town or township in this Territory, who shall construct and maintain and keep in repair a watering trough beside the highway, which shall be above the ground and made easily accessible for horses and carriages, shall be allowed by the city, town or township, five dollars out of his highway tax for each year during which he shall furnish the same.

§ 85. WELL OR SPRING EXEMPTION.] Any person in any city, town or township who shall construct and maintain and keep in repair a good well or spring beside the highway, and easily accessible, and provide it with a suitable pail or bucket, and keep the same so supplied and in good repair, shall be allowed by the city, town or township, three dollars out of his highway tax for each year during which he shall furnish the same.

§ 86. PROCEEDINGS TO FURNISH WATERING PLACE.] Any person upon any highway or road, in any district or ward, wishing to furnish such watering trough, well or spring, shall make application to the alderman of the city, or supervisors of the town, who shall decide where such trough, well or spring shall be located, and the number that shall receive the benefits of this act.

#### XVI.—DITCHES FOR DRAINING HIGHWAYS.

§ 87. PROCEEDINGS FOR DRAINING OR DITCHING.] Whenever any overseer of highways shall file with the chairman of the board of supervisors of the town in which his road district is

located, his affidavit stating that a certain road passing through or into the district of which he is overseer, runs into or through swamp, bog or meadow or other low land, and that it is necessary or expedient that a ditch or ditches should be opened through land belonging to any person, stating the probable length of such ditch or ditches, and the width and depth of the same as near as possible, the point at which it is to commence, its general course, and the point near which it is to terminate, and the names of persons owning the land, if known, and a description of the land over which said ditch or ditches must pass, and that the road at that point cannot be made passable without extraordinary expense unless such ditch or ditches are laid out and opened; thereupon it shall be the duty of the chairman of the board of supervisors immediately to make out a notice and fix therein a time not less than six nor more than sixty days from the date thereof [when] the board of supervisors will meet at the place described in said affidavit, and personally examine the premises; which notice, together with the affidavit, he shall cause to be filed in the office of the town clerk, and the clerk shall make true copies of said notice and deliver them to the overseer of highways making the affidavit, whose duty it shall be to personally serve the same upon each of the owners of the land, if residents of the county, or upon the occupants of the land if the owners are residents of the county through which it is proposed to open such ditch or ditches, which notice may be in the following form:

Territory of Dakota, County of ..... Mr. ....  
 Notice is hereby given, that, whereas it appears by the affidavit of overseer of road district No. .... in the town of. ...., that the road running from ..... to ..... runs into or passes through a swamp, bog, pond or low land, which swamp, bog, pond or low land is situated on section. ...., in said town, and that it is the opinion of said overseer, that a ditch or ditches should be opened through land belonging to. ...., for the purpose of draining said swamp; therefore, you are hereby notified that the board of town supervisors will, on the ..... day of. ...., A. D. 18.., personally examine the premises over which said ditch or ditches are to pass, and decide upon said application, and will also hear any objections which may be made in the matter, and will consider the amount of damages which, in their opinion, will be just compensation to the owners of land in consequence of the opening of such ditch or ditches.

Signed ..... chairman of the board of supervisors.

....., clerk of town of. ...."

*Provided*, That such ditch or ditches shall be laid out upon the lines that the owner or owners of the land over which they are to pass may desire whenever it can so be done without extra cost.

§ 88. NOTICE, AND PUBLICATION.] The overseer serving such notice shall make return thereon to the town clerk, stating the facts, and if it shall appear from the returns of the overseer that the owners of said lands do not reside in the county, and that no occupant resides thereon, the town clerk shall order the publication of the notice for three successive weeks in a newspaper printed and published in said county, or if there be no paper printed and published in said county, then he shall post or cause to be posted up the notice in three of the most public places in the county, for three weeks prior to the meeting of the supervisors, and such publication shall be considered as sufficient notice to all parties.

§ 89. SUPERVISORS TO EXAMINE.] At the time specified in the notice the supervisors shall proceed to examine the road and premises over which such ditch must pass, and hear any reasons for or against laying out the same, and shall decide upon the application as they deem proper, and shall assess the amount of damages which in their judgment will be an equitable compensation to the owners of the land for the opening of said ditch or ditches through their land, and in all cases they shall estimate the advantage and benefits the laying out and opening of such ditch or ditches will confer upon the owner of any land through which such ditch may run, as well as the disadvantages;

*Provided,* The damages sustained by reason of laying out and opening such ditch or ditches may be ascertained by the agreement of the owners and the supervisors, in which case every agreement and release shall be in writing, and filed in the town clerk's office, and shall forever preclude such owners of lands from all further claims for damages. If, after taking all the circumstances into consideration, the supervisors shall be satisfied that the opening of such ditch or ditches is necessary or advantageous to the public interest, they shall cause the same to be laid out and opened, and shall give such directions in the matter as shall be necessary for the effectual draining of said swamp, pond, bog or low land, and shall file a statement in writing of all their doings, including the amount of damages allowed, in the office of the town clerk, who shall copy the same into a book to be kept by him especially for that purpose; and if the order and proceedings be not appealed from within ten days from the filing thereof as hereafter provided for, then said judgment, order and findings shall be final, and the overseer may proceed to open the ditch or ditches, in accordance with the directions and under the instructions of the said board of supervisors.

§ 90. APPEALS.] Any party through whose land said ditch shall pass may appeal from the decision of the supervisors to the district court of the county in which the premises are situated, by

filing with the town clerk within ten days after the decision of the supervisors shall have been made and filed, a recognizance of the appellant with sureties to be approved by the said board or chairman in a sum not less than one hundred dollars, conditioned that the appellant will appear at the next term of the district court, and prosecute his suit to final judgment, if the court shall not otherwise order for good cause; and further, that he will abide the decision of the court, and pay all costs and damages that may be assessed against him therein; or, if the appeal shall be dismissed or discontinued, that he will pay the costs of appeal. The proceedings of the district in the appeal shall be the same as an appeal in civil action from a justice of the peace, as nearly as practicable, and costs shall be awarded for or against either party in the same manner as upon an appeal in civil actions.

§ 91. KEEPING DRAINS IN REPAIR.] At any time after such ditch or ditches shall have been opened, it shall be lawful for the overseer of highways of the road district, from time to time as it may become necessary, to enter upon the lands through which such ditch or ditches have been opened, for the purposes of clearing out and scouring the same, and then and there to clear and scour the same in such manner as to keep them open and in good order and condition.

§ 92. PENALTY FOR INJURING DITCH.] Any person who shall dam up, obstruct or in any way injure any ditch or ditches as opened, shall be liable to pay to the overseer of highways of such road district double the damages which shall be assessed by the jury or court trying the case for such injury, and shall further be deemed to have committed a misdemeanor, and shall upon conviction thereof be punished by imprisonment of not more than three months, or by fine of not more than one hundred dollars, and such sums of damages and fines shall be by such overseer expended on the roads in his district.

§ 93. PAYMENT OF DAMAGES.] When the amount of damages or compensation to be paid to any one or more of the owners of land taken for such or ditches shall have been finally determined by proceedings under the provisions of this act, the board of town supervisors shall provide for the payment of and pay the same in the manner provided by law for the payment of like damages or compensation for land taken for a public highway, and may in their discretion deduct the amount so paid from money belonging to or to be paid over to the road district in which such ditch or ditches shall have been constructed.

#### XVII.—SEEDING DOWN HIGHWAYS.

§ 94. SEEDING HIGHWAYS TO GRASS.] Any person living upon or owning land fronting on any of the public highways of this

Territory, may, for the purpose of seeding the same down to grass, plow and level the said highways for said purpose, and seed the same to grass to within eight feet of the center of the same ;

*Provided*, That nothing herein contained shall be construed to authorize the said parties to work upon the same to the hindrance or detriment of the travel upon said roads, or to authorize any compensation for the same.

XVIII.—ROADS ON LINES OF CITY OR VILLAGE.

§ 95. TOWN AND CITY LINE ROAD.] Whenever the supervisors of any town and the trustees or common council of any incorporated city or village shall receive a petition praying for the location of a road or for the altering or discontinuing of any road, on the line between such town and incorporated city or village, such road shall be laid out, altered or discontinued by two or more of the supervisors of such town and a majority of the common council or trustees of such incorporated city or village.

§ 96. APPEALS. The decision of such supervisors and common council or trustees in relation to such road, may be appealed from in the manner as provided in the laws of this Territory for appeals from the decisions of supervisors in relation to town roads.

§ 97. LAWS APPLICABLE.] The laws of this Territory which apply to a road on the line between two towns, shall be applicable to all roads on the line between any town and an incorporated city or village.

XIX.—RECORDING TERRITORIAL AND COUNTY ROADS.

§ 98. FIELD NOTES TO BE FURNISHED.] That upon the written request of the board of supervisors of any township in this Territory, the county auditor of the county wherein such township is situated shall furnish a copy of the description and field notes and plat (if any) of each Territorial, State and county road running into or through such township, as appears by the description, field notes and plat on file or of record in his office.

§ 99. RECORD OF FIELD NOTES.] Upon the filing of such copy in the town clerk's office, the town clerk shall record the same in the road record book of the township, and such record shall be *prima facie* evidence of the existence of such road according to the description and plat so on file.

§ 100. WHEN ACT TO TAKE EFFECT.] This act shall not take effect until January 1, 1884, and on and after that date townships organized and acting under present laws shall be wholly subject to the provisions of this act.

Approved, March 9, 1883.

## CHAPTER 113.

## ONE BALLOT FOR TOWNSHIP AND COUNTY OFFICERS.

AN ACT to Amend Section 7 of Chapter 59 of the Laws of 1879.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota :*

§ 1. ALL OFFICERS TO BE CHOSEN TO BE NAMED ON ONE BALLOT.] That section 7 of chapter 59 of the laws of 1879, is amended to read as follows :

The electors of each township shall have power at the annual or general 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 as county, district and territorial officers at such election.

§ 2. That section 1 of chapter 130 of the laws of 1881 is hereby repealed.

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

§ 4. This act shall take effect immediately.

Approved, March 9, 1883.

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Townsites.

## CHAPTER 114.

## DISPOSITION OF LOTS IN TOWNS ENTERED UNDER THE ACT OF CONGRESS OF 1867.

AN ACT to Amend Section 13 of Chapter 135 of the Laws of 1881, Entitled An Act Prescribing Rules and Regulations for the Execution of the Trust Arising Under the Act of Congress, Entitled An Act for the Relief of Inhabitants of Cities and Towns Upon the Public Lands, Approved, March 2, 1867, and Acts Amendatory thereto.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota :*

§ 1. REMAINING LOTS TO BE DEEDED TO BOARD OF EDUCATION.] That section thirteen of the session laws of 1881 be amended so as to read as follows :