

# DRAINAGE.

## CHAPTER 43.

### AMENDING LAND DRAINAGE ACT.

AN ACT To Amend Chapter Seventy-five of the General Laws of 1883, in Regard to Drainage as Amended by Chapter Forty-seven of the General Laws of 1885.

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

§ 1. AMENDMENT.] That the words "register of deeds" be stricken out wherever they occur in chapter seventy-five of the General Laws of 1883, as amended by chapter forty-seven of the General Laws of 1885, and the words "county clerk or county auditor" be inserted in lieu thereof.

§ 2. AMENDING SCETION 2.] That section two of chapter seventy-five of the General Laws of 1883 be amended by striking out the words "and they shall" where they occur in line fifty before the words "in tabular form," and inserting in lieu thereof the words "and such surveyor shall."

§ 3. AMENDING SECTION 10.] That section ten of said chapter seventy-five be amended by adding thereto the words: "when the same are collected by the county or township treasurer as hereinafter provided."

§ 4. AMENDING SECTION 11.] That section eleven thereof be amended by striking out the word "viewers" in line seventeen and inserting in lieu thereof the word "reviewers."

§ 5. AMENDING SECTION 16.] That section sixteen thereof be amended by striking out the word "final" in line seven and by striking out all of said section after the word "completed" in line nine.

§ 6. AMENDING SECTION 17.] That section seventeen thereof be amended by striking out, in line four the words "either the following manner" and inserting in lieu thereof the words "any of the following matters."

§ 7. SALE OF WORK TO LOWEST BIDDER.] That all of the section nineteen of chapter seventy-five of the General Laws of 1883, be stricken out and the following substituted:

§ 19. As soon as the board of county commissioners or township board establish any public ditch, drain or water course, and

the viewers or reviewers have fixed the time in which the shares or allotments of said ditch shall be constructed, the county clerk or county auditor or township clerk shall sell the job of digging and constructing such ditch or drain in single shares or allotments, groups of shares or allotments, or as a whole, as he may deem best for all parties interested, and he shall give notice by publication for three consecutive weeks in some newspaper published in the county where such work is to be done, or if there be no newspaper published in said county, by posting for three weeks three written copies of such notice in three public places in the vicinity of the proposed work, and one at the door of the court house in said county, of the time when and the place where he will sell to the lowest responsible bidder or bidders the said shares or allotments, and no bid shall be entertained which exceeds more than twenty per cent. over and above the estimated cost of the construction in any case; and the county clerk or auditor or township clerk shall contract with the party to whom a share or allotment, group of shares or allotments or the whole number of shares or allotments is sold, requiring him to construct the same in the time and manner set forth in the report of the viewers or reviewers, on which the ditches or drains are established, and take from him a bond with two freehold sureties, payable to the Territory, for not less than double the amount for which the same is sold, to be by him approved, conditioned that he will faithfully perform and fulfill his contract, and pay all damages which may accrue by reason of the failure to complete the job within the time required in the contract therefor; *Provided*, That the work of constructing such ditch or drain shall commence at the outlet thereof and proceed up towards the source, which shall not be opened or constructed until all lower parts of the ditch are fully completed and accepted.

§ 8. INSPECTION OF WORK.] That all of section twenty-one of said chapter seventy-five, be stricken out and the following substituted:

§ 21. It shall be the duty of the county surveyor, on being notified by any contractor that his job is completed, to inspect the same, and if he find that it is completed according to contract, he shall accept it and give to the contractor a certificate of acceptance, stating that said job, share or allotment is completed according to the specifications of said ditch or drain, which certificate shall be a lien upon the land assessed for such share or allotment, and when a copy of such certificate is filed with the county clerk or auditor, he shall charge the amount mentioned in said certificate on the tax duplicate, against the land assessed, to be collected as other taxes are collected, and when collected it shall be paid to the person holding the certificate, on an order of the county clerk or auditor.

§ 9. DUTY OF VIEWERS.] Insert after section twenty-one of said chapter seventy-five, the following section:

§ 22. Upon the letting of the contracts for the construction of said ditch, drain or water course, and the approval of the bonds to secure the same, it shall be the duty of the viewers if such work is let under their report, or of the reviewers, if let under them, to meet at their former place of meeting within ten days thereafter and make a final report, in which they shall apportion the cost of locating and constructing such ditch, drain or water course, including penalties, fees, damages if any shall have been allowed, and compensation to the viewers, reviewers, surveyor and necessary assistants at the rates hereinafter specified, and award to each person or corporation owning lands assessed for the construction of said work, their proportionate share of such cost, and shall file their report with the county clerk or auditor, after having subscribed and sworn to the same. And it shall be their duty to file with their report an account of the names of the assistants and the time each was employed by them, and the awards so apportioned, shall be entered up by the county clerk or auditor, on the tax list and duplicate, as a tax against such property and shall be collected by the treasurer as other taxes are collected, and the amount so collected shall be paid out by the treasurer to the parties entitled thereto on an order from the county clerk or county auditor.

§ 10. AMENDMENT OF SECTION 28.] That section twenty-eight of said chapter seventy-five be amended by striking out the words, "and perform said labor," in line nine thereof.

§ 11. COMPENSATION.] Strike out all of section thirty-one of said chapter seventy-five, and substitute the following:

§ 31. The surveyor or engineer shall be allowed the sum of three dollars per day for each day he is necessarily engaged in performing the duties required of him by this act. The viewers and reviewers shall each be allowed two dollars per day for each and every day they are necessarily engaged in viewing and reviewing, and ditching, and making up and filing their reports, each chainman, axman, rodman, and all other hands necessary to the prompt execution of the work of locating a public ditch, shall be allowed one dollar and fifty cents per day for the time actually employed.

§ 13. That the sections of said chapter seventy-five be re-numbered to conform with the foregoing amendments.

§ 14. That all acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 11, 1887.