

such selection and such right-of-way, properly acknowledged so as to entitle the same to be recorded, and so as to readily distinguish and designate such right-of-way from the entire premises described in the conveyance from which it was attempted to be reserved, or shall have begun within one year after the taking effect of this act, an action in a court of competent jurisdiction for the purpose of definitely determining and locating such right-of-way, and establishing his or its right thereto, and in such case shall have filed and recorded a proper notice of *lis pendens* in the office of the register of deeds of the county in which such land is located.

Approved March 8, 1907.

TOWNSHIPS

CHAPTER 252.

[H. B. No. 344—Treat]

PUBLIC IMPROVEMENTS IN CIVIL TOWNSHIPS.

AN ACT to Provide for Paving, Curbing or Macadamizing the Highways in Civil Townships Adjoining Incorporated Cities of Not Less Than Six Thousand Inhabitants, and for the Construction of Sewers and Water Mains Therein, Connecting With City Sewers and Water Mains or With Their Own Trunk Sewers, and for the Construction of Sidewalks.

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

§ 1. WHAT CIVIL TOWNSHIPS MAY PAVE, GRADE OR MACADAMIZE ITS STREETS.] Any civil township in this state adjoining an incorporated city having by the last census at least six thousand inhabitants and which shall have paved, graded, curbed or macadamized its streets leading to the boundaries of such civil township, or shall have constructed sewers or watermains in such streets, may pave, grade or macadamize the highways of such township connecting with such city streets, or with such highways so paved or highways running along the boundaries of such city, or construct sewers or watermains therein as provided by this act; provided, that such township shall not so improve any portion of such highways not lying within its boundaries.

§ 2. HOW ACCOMPLISHED.] Whenever the owners of real property abutting on such highway, or part thereof, in such civil township, sought to be improved as provided in this act, and representing a majority by feet of the frontage of said property so

abutting, shall desire to improve such street or highway, or part thereof, as herein provided, they shall petition the board of supervisors of such township in writing, setting forth and describing specifically in such petition the kind, character and extent of the improvement desired, specifying the width and material of pavement, if any, and the size and material of any lateral sewers or watermains, the number and location of manholes and catchbasins for such sewers, and the number and location of fire hydrants for such watermains, which petition shall be accompanied by an affidavit of each signer thereof, stating his place of residence and that he is the owner of certain real property abutting on the part of such highway sought to be improved, describing such property, and stating the number of feet frontage thereof abutting on such street, which petition shall be filed in the office of the township clerk. In the case of trunk sewers, the board shall, by majority vote, order and construct the same whenever a majority petition is presented for the construction of lateral sewers that cannot be connected with the city sewers.

§ 3. SYSTEM OF SEWERAGE.] The board of township supervisors shall have power to establish and maintain at any time a general system of sewerage for the township in such manner and under such regulations as the board shall deem expedient, and to alter or change the same from time to time as the board shall deem proper; provided, that no action shall be taken for the establishment of such system of sewerage except upon the affirmative vote of a majority of the members of the board; provided, further, that when such system of sewerage is established all measures necessary for the construction of sewers, as a part of such system, may be taken by a vote of the majority of the board; and provided, further, that such townships may empty or discharge its sewerage into any river.

§ 4. TO CREATE SEWER IMPROVEMENT DISTRICTS.] Any such township shall have power to create sewer districts within the limits of such township which shall be consecutively numbered.

§ 5. SIZE AND FORM OF SEWER DISTRICTS.] Such sewer districts shall be of such size and form as the board, after consulting with their engineer, shall decide most practical for the purpose of the drainage of such portion of such township as may be included in the respective districts as established by the board of township supervisors.

§ 6. PLANS, SPECIFICATIONS AND ESTIMATE.] The board shall deem it necessary when a majority petition, above provided for, shall be filed, to construct or alter any sewer or to open, widen, extend, pave, macadamize or curb any street, alley, avenue, lane, highway or other public grounds within the township limits, or to extend, relay or replace any sewer and watermains. The board shall employ a competent engineer to prepare plans and specifications for such work and make an estimate of its probable cost,

which plans, specifications and estimate shall be the property of the township and be filed in the office of the township clerk, and remain on file in his office subject to the inspection of all persons. The engineer shall retain a copy of such plans, specifications and estimate and file the same in his office for the inspection and information of bidders.

§ 7. RESOLUTION DECLARING WORK NECESSARY.] After the plans, specifications and estimate mentioned in the preceding section shall have been filed in the office of the township clerk, the board shall, by resolution, declare such work or improvement necessary to be done according to such plans and specifications as filed in the office of the township clerk.

§ 8. DUTY OF BOARD.] The board shall then cause proposals for said work to be advertised for in the nearest newspaper twice, once in each week for two successive weeks, which advertisement shall specify the work to be done, according to the plans and specifications therefor on file in the township clerk's office, and shall call for bids therefor upon a basis of cash payment for said work, and state the time within which such bids will be received, and within which such work is to be completed. Bids for such work shall be forwarded to the clerk of such township, securely sealed so as to prevent their being opened without detection, and shall have indorsed upon the outside thereof a statement of what work such proposals are for. Such bids shall be opened by the board at the expiration of the time limited in said advertisement for receiving the same, which shall not be less than fifteen days after the first publication of said advertisement, or at such other time as the board may appoint therefor, and if accompanied by the check and bond hereinafter provided for, shall be considered, and if not accompanied by such check and bond, shall be rejected.

§ 9. BIDS.] Each bid for any work to be done under the provisions of this act shall be accompanied by a certified check, in case of sidewalks for the sum of fifty dollars, and in case of other work for the sum of five hundred dollars, indorsed or payable to the clerk, as a guarantee that the bidder will enter into a contract for the performance of such work in case such contract is awarded to him, and in case any bidder to whom such contract shall be awarded fails or refuses to enter into such contract when requested so to do, such check accompanying his bid shall be retained by the township and be deemed to be liquidated damages for such failure, and shall be delivered to the township treasurer and credited by him to the fund from which the consideration for such work is payable.

§ 10. BOND.] Each bid for any such work shall also be accompanied by a bond running to the township, in case of sidewalks for the sum of five hundred dollars, and in all other cases a sum equal to the amount of such bid, executed by such bidder and a surety company as surety, or by two freeholders of the state,

who shall justify as required in arrest and bail, and the aggregate of such justification shall equal the amount of such bond, and such bond shall be conditioned that in case such bid is accepted and such contract awarded to such bidder, he will well and faithfully perform the work bid for, in accordance with the terms of, and within the time provided for in such contract, and pursuant to the plans and specifications for such work on file in the clerk's office, and pay for all labor and material used in such work, and that in case of default on the part of such bidder to perform such work as provided in his contract, the sum named in said bond shall be taken and held to be fixed and liquidated damages in favor of said township; and that the full amount thereof may be recovered from such bidder and his sureties in an action by the township against them on such bond. Such bond shall be approved by the board and filed in the office of the clerk, and shall thereupon be and remain in full force and effect. Upon the award of the contract the checks of all unsuccessful bidders shall be returned to them, and upon the execution of the contract and filing of such bond the check of the successful bidder shall be returned to him.

§ 11. BOARD MAY REJECT BIDS.] The board of township supervisors shall have the right to reject any and all bids for work to be done under this act, if, in its opinion, the interests of the township will be best subserved by so doing, and readvertise for further bids; but if all such bids are not rejected the contract shall then be awarded to the lowest bidder upon the basis of cash payment therefor, provided such bidder shall have complied with the foregoing requirements and furnished the bond hereinbefore provided for.

§ 12. CONTRACTS.] All contracts entered into for any work provided for in this act, shall be entered into in the name of the civil township and shall be executed on the part of the township by the chairman of the board of supervisors thereof, and countersigned by the township clerk with the corporate seal of the civil township affixed, and when signed by the contractor shall be filed in the office of the township clerk. Such contracts shall require the work to be done thereunder, to be done pursuant to the plans and specifications therefor on file in the office of the township clerk, and subject to the approval of the civil engineer, who shall personally supervise and inspect such work during its progress, and there shall be reserved in each contract the right of the civil township in case of the improper construction of such work to suspend work thereon at any time, and to relet the contract therefor or order a reconstruction of said work on any part thereof improperly done. Each contract so entered into shall state the time on or before which such work must be completed, and must state from what fund the amount to be paid thereon by the civil township is to be paid, and that the consideration of such contract is payable only in warrants drawn on such fund and that such civil

township assumes and incurs no general liability under such contract.

§ 13. CONTRACTOR, HOW PAID.] In case the contractor to whom any such contract shall be let shall properly perform the work therein designated, the board of supervisors may from time to time in its discretion, as the work progresses, pay to such contractor upon an estimate made by the civil engineer of the amount already earned thereunder, eighty-five per cent of the amount shown by such estimate to have been so earned, in warrants drawn on the fund from which the same is to be paid.

§ 14. SPECIAL ASSESSMENT FUNDS. WARRANTS.] All special assessments levied under the provisions of this act shall constitute a fund for the payment of the cost of the improvement for the payment of which they are levied, and shall be diverted to no other purpose, and those for payment of sewer improvements shall be designated respectively "sewer district No..... fund," and such fund shall be numbered according to the number of the sewer district in which it is raised. Those collected for paving improvements shall be designated as "paving fund," and those levied for the payment of watermains shall be known as "watermain fund," and in anticipation of the levy and collection of such special assessments the township may, at any time after the making of a contract for any such improvements, issue warrants on such funds, payable at such specified times and in such amounts as in the judgment of the board of supervisors the taxes and assessments will provide for, which warrants shall bear interest at the rate of not to exceed seven per cent per annum, payable annually, and may have coupons attached representing each year's interest. Such warrants shall state upon their face for what purpose they are issued and the fund from which they are payable, and shall be signed by the chairman of the board of supervisors and countersigned by the township clerk under the seal of the civil township, and be in denominations of not more than one thousand dollars each. Such warrants may be used in making payments on contracts for making such improvements or may be sold for cash at not less than the par value thereof, and the proceeds thereof credited to such fund and used for paying for such improvements. It shall be the duty of the treasurer to pay such warrants and interest coupons as they mature and are presented for payment, out of the funds on which they are drawn, and to cancel the same when paid.

§ 15. ERRORS AND MISTAKES.] In case of errors or mistakes in making an assessment, in respect to the total cost of such improvements or otherwise, occur, or in case of any deficiency in any assessment or otherwise, the board of supervisors shall have power, and it shall be their duty from time to time, to cause additional assessments to be made in the manner hereinafter provided, to supply such deficiencies or correct such errors or mistakes, the total of such assessments not to exceed the benefit to such property

and any such assessment shall be a lien upon the lots and lands on which it is levied as herein provided for the original assessments, and shall be payable in the same manner, and in the same installments, and shall draw interest at the same rate, and shall be enforced in the same manner as herein provided with respect to the original assessment.

§ 16. REASSESSMENT.] In all cases where any assessment, or any part thereof, as to any lot, lots or parcels of land assessed under any of the provisions of this act, for any cause whatever whether jurisdictional or otherwise, shall be set aside or declared void by any court, the board of supervisors shall, without unnecessary delay, cause a reassessment or new assessment to defray the expenses of such improvement to be made, and such reassessment or new assessment shall be made as nearly as may be as herein provided for making the assessment therefor in the first instance and may bear interest from the date of the approval of such assessment so set aside and when the same shall have been made and confirmed by the board of supervisors, it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act, and in all cases where judgment shall hereafter be refused or denied by any court for the collection or enforcement of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, the said lot or parcel of land may be reassessed or newly assessed from time to time, until each separate lot, piece or parcel of land has paid its proportionate part of the costs and expenses of such improvement as near as may be; provided, that when any special assessment shall be declared void or set aside by judgment of the supreme court, for a cause affecting other like assessments, all assessments so affected may be vacated by resolution of the board of supervisors and thereupon a reassessment of the property affected thereby shall be made as herein provided and may bear interest as hereinbefore provided.

§ 17. ERROR OR OMISSION SHALL NOT VITIATE.] No error or omission which may be made in the proceedings of the board of supervisors or of any officer of said civil township in referring, reporting upon, ordering or otherwise acting concerning any local improvement provided for in this act, or in making or certifying any assessment, shall vitiate or in any way affect any such assessment, but if it shall appear that by reason of such error or omission substantial injury has been done to the party or parties claiming to be aggrieved, the court shall alter such assessment as may be just, and the same shall then be enforced.

§ 18. ACTION TO AVOID TAX. JUDGMENT.] Whenever any action or proceeding shall be commenced and maintained before any court to prevent or restrain the collection of any special assessment or part thereof, made or levied by the officers of any civil

township for any purpose authorized by law, and whenever any action or proceeding shall be commenced and maintained as aforesaid to vacate or set aside any sale of real estate for such special assessment, or to cancel any tax certificate or deed given under such sale, and such assessment shall be held to be void by reason of noncompliance with this act, the court shall determine the true and just amount which the property attempted to be so assessed by said special assessment should pay, to make the same uniform with other special assessments for the same purpose, and the amount of such assessments as the same appears on the assessment list thereof, shall be prima facie evidence of such true and just amount, and judgment must be rendered and given therefor against the party liable for such special assessment, without regard to the proceedings had for the levy thereof, and such judgment shall be a lien upon the property upon which a special assessment shall have been levied, of equal force and effect as the lien of special assessments, and the lien of such judgment shall be enforced by the court in such action; provided, that no action for either of said purposes shall be maintained unless it is commenced within six months after such special assessment is approved, and in case of such assessment heretofore approved, within six months after this act takes effect.

§ 19. PAYMENT OF DEFICIENCY.] Whenever special assessments levied for a specific improvement shall have been collected and applied in payment of the warrants issued for such improvement, and a deficiency remains, the board of supervisors shall levy a tax upon all the taxable property in the civil township for the payment of such deficiency, and in case of a balance of such special assessments remaining unexpended, it may be used for repairs of such improvement.

§ 20. SEWER ASSESSMENTS EXTENDED TWENTY YEARS.] The special assessments herein provided for the payment of the cost of constructing any sewer shall be payable in equal annual amounts extending over a period not exceeding twenty years, and shall bear interest at a rate not to exceed seven per cent per annum on the total amount of such assessments remaining from time to time unpaid.

§ 21. WATERMAIN ASSESSMENTS EXTENDED TEN YEARS.] The special assessments herein provided for the payment of the cost of any watermains shall be payable in equal annual amounts, extending over a period not exceeding ten years, and shall bear interest at a rate not to exceed seven per cent per annum on the total amount of such assessments remaining from time to time unpaid.

§ 22. PAVING ASSESSMENTS EXTENDED TEN TO TWENTY YEARS.] The special assessments hereinbefore provided for the payment of the cost of paving and repaving shall be payable in equal annual amounts, and in case such paving shall be made on a perishable foundation of wood, such amounts shall be extended over a period

not to exceed ten years, and in case such pavement shall be constructed with a concrete or other permanent foundation, such amount shall be extended over a period not exceeding twenty years, and the said assessment shall bear interest at not to exceed the rate of seven per cent per annum on the total amount thereof remaining from time to time unpaid.

§ 23. SIDEWALK ASSESSMENTS.] All special assessments for sidewalks and for the expense of opening, widening or extending streets shall be payable in a single amount.

§ 24. CERTAIN ASSESSMENTS COLLECTED BY SUIT.] Whenever by reason of the exemption of any real property from special assessments, or when any real property cannot be specially assessed as herein provided, in any improvement district, by reason of the title thereof being in the United States, or from other cause, and such real property would otherwise be assessable for any improvements provided for herein, an assessment may be levied against such property and collected from the owner, or person enjoying the beneficial use of such property by suit in any court in this state

§ 25. SPECIAL ASSESSMENTS DUE. INTEREST.] All special assessments levied under the provisions of this act shall become due and payable ten days after the same shall have been approved by the "special assessment commission" and shall thereafter bear interest at the rate of seven per cent per annum.

§ 26. SPECIAL ASSESSMENT COMMISSION.] The board of township supervisors shall constitute a commission to be known as the "special assessment commission." Each member of such commission shall receive as compensation for his services while actually engaged in the duties of such commission the sum of five dollars per day.

§ 27. NOTICE TO COMMISSION.] Whenever the work for which a special assessment shall be required to be made by such commission shall have been completed and approved by the civil engineer, and the total cost of such work shall have been ascertained as near as practicable, the clerk shall notify the chairman of such commission of the completion of such work, and shall certify to him the items of the total cost thereof, to be paid by special assessments, so far as the same have been ascertained, and the chairman of such commission shall thereupon immediately call a meeting of such commission, and such commission shall thereupon as expeditiously as possible proceed to make and return such special assessment as hereinafter provided.

§ 28. SPECIAL ASSESSMENT, HOW MADE. REVIEW.] It shall be the duty of such commission, whenever required under the provisions of this act to make any special assessment, to personally inspect any and all lots and parcels of land which may be subject to such special assessment and determine from such inspection the particular lots and parcels of land which will, in the opinion of such commission, be especially benefited by the construction of

the work for which such assessment is to be made, and thereupon determine the amount in which each of said lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made and thereupon assess against each of such lots and parcels of land, such sum not exceeding such benefits as shall be necessary to pay its just proportion of the total cost of such work, or such part thereof as is to be paid by special assessments, including all expenses incurred in making such assessment, and publishing necessary notices with reference thereto, including the per diem of such commission; and such commission shall thereupon make or cause to be made a complete list of such benefits and assessment setting forth each lot or tract of land assessed, and the amount such lot is benefited by the improvement, and the amount assessed against each, and shall attach to said list a certificate signed by a majority of the members of such commission, certifying that the same is a true and correct assessment of the property therein described to the best of their judgment, and stating the several items of expense included in such assessment, and shall thereupon cause the same to be published twice, once in each week for two consecutive weeks, in the nearest city newspaper, together with a notice of the time and place when and where such commission will meet to hear objections which may be made to any such assessment, by any person interested therein, or his agent or attorney, which time shall not be less than fifteen days after the first publication of such notice; and such commission may thereupon alter the same as may in their opinion be just or as may be necessary to correct any errors therein, and they may increase or diminish any such assessment as may be just and as is necessary to make the aggregate of all such assessments equal to the total special assessment to be made for the cost of the work for which they are made; provided that no assessment shall exceed the benefits to the parcel of land assessed, as determined by the commission. Such commission shall thereupon confirm and approve such list and attach thereto their further certificates certifying that the same is correct as confirmed by them. Such commission shall thereupon file such assessment list in the clerk's office, and such assessment with interest and penalties accruing thereon shall be and remain a paramount lien upon the property upon which such assessment is levied from the time such assessment list is approved by the special assessment commission, and shall remain a lien thereon until fully paid and shall have precedence over all other liens except ordinary taxes to which it shall be subject, and such lien shall not be divested by any judicial sale, and no mistake in the description of the property or in the name of the owner shall obviate such lien, provided the property assessed can be identified by the description in such assessment list.

§ 29. CLERK SHALL CERTIFY ASSESSMENTS.] The clerk shall annually, at the time he certifies to the county auditor the amount

of township taxes to be levied for the current year, also certify to such auditor all sidewalk, and all sidewalk repair assessments, and all assessments for opening or widening the streets, remaining in his office uncertified, and shall also certify to such county auditor a list of the lots and tracts of land specially assessed for any other purpose as hereinbefore provided, designating the purpose of such assessment and the fund to which it belongs, with the proportion of such assessment for such year against each lot, and shall add thereto one per cent of all such assessments so certified, and the county auditor shall thereupon extend the same upon the tax list for the current year, and the amount, with all interest and penalties, shall be collected and paid over to the township treasurer in the same manner as other taxes, and when so paid over shall be credited by the township treasurer and clerk to the fund for which it was collected.

§ 30. WARRANTS MAY BE USED TO PAY ASSESSMENTS.] Any matured special assessment warrants or interest coupons may be used in the payment of special assessments levied for the payment of the improvement for which such warrants or interest coupons were issued, and such warrants or coupons so used shall be cancelled and retired by the township treasurer.

§ 31. RIGHT OF PROPERTY OWNERS TO PAY ASSESSMENTS.] The owner of any property against which an assessment shall have been made for the cost of any improvement under this act shall have the right to pay the same, or any part thereof remaining unpaid, in full, with the unpaid interest thereon, and such payment in full shall constitute a discharge of the lien of such assessment upon his property. Such payment may be made to the county treasurer upon all installments of such assessments which have been certified to the county auditor, and may be made to the township treasurer upon all portions of such assessments which have not been so certified. The person desiring to pay any portion of such assessment to the township treasurer shall obtain from the clerk a certificate of the amount due upon such assessment which has not been certified to the county auditor, and shall thereupon present such certificate to the township treasurer, and the township treasurer shall thereupon receive and collect such amount and issue duplicate receipts therefor, one of which he shall deliver to the party paying such assessment, and thereupon deposit the other in the office of the clerk, and the clerk shall thereupon note upon his records the payment of such assessment.

§ 32. PENALTIES TO BE ADDED.] The county treasurer shall add to all such special assessments the same interest and penalties that are provided to be added in the case of general taxes, and at the same time, and shall collect such interest and penalties with such special assessments and shall pay over to the township treasurer all such interest and penalties.

§ 33. DELINQUENT SPECIAL ASSESSMENT SALES.] If the real property against which any assessment is levied is sold to enforce

the collection of a special assessment which has become delinquent, the sale shall be made by the same officer, and upon like notice and subject to the same provisions in relation to redemption, and the same record thereof shall be kept by the officer making the sale, as in cases of real property for delinquent taxes; but if any real property is subject to sale at the same time for delinquent taxes, and also for delinquent special assessments it shall be sold separately for each, and a separate certificate of sale shall be issued upon each of said sales, although both sales are made to the same person, and the certificates issued upon the sale for special assessments shall so state; and if no redemption is made from such sale, a deed shall be issued to the purchaser or his assigns, which shall be, as nearly as practicable, in the same form as deeds issued upon sales for general taxes, except that it shall state that such sale was made for special assessments; and in case the sale for special assessments is made to a different purchaser from the sale for general taxes, such purchaser may redeem said premises from the purchaser of the same for delinquent general taxes, and upon such redemption shall be subrogated to all the rights of such purchaser from whom such redemption is made. Such redemption shall be made at the office of the county auditor, and the auditor shall issue to the redemptioner a certificate of such redemption, which shall state that such redemption is made by the holder of a certificate of sale of the premises for delinquent special assessments, and that the person to whom such certificate is issued or his assigns is subrogated to all the rights of the original purchaser, and such certificate shall entitle the holder of a tax deed of said premises under such sale for delinquent general taxes, subject to the same conditions, and at the same time as the original certificate of such sale.

§ 34. WHEN NO BIDDERS. TAX DEED.] Whenever any parcel of land shall be offered for sale for a special assessment as provided in section 2808, and there shall be no bidder therefor, the county auditor shall strike off such parcel of land to the civil township making such assessment, and issue a certificate of sale therefor to such civil township, which certificate shall be assignable as hereinafter provided, and if no redemption be made from such sale, or such certificate be not assigned within three years from the date of such certificate of sale, the piece or parcel of land so bid off shall become the absolute property of the civil township, at the expiration of said three years, without any further act upon its part, and may be disposed of by the civil township at public or private sale, as may be provided by the board of supervisors, and the civil township may redeem any parcel of land from a purchaser thereof under a sale for general taxes as is hereinbefore provided for such redemption in other cases, and any assignee of the civil township's certificate of sale may likewise, and in like manner redeem any such parcel of land from any such sale

for delinquent taxes and such redemption shall have the same force and effect as provided in the preceding section. The civil township may at any time before its title to said land becomes absolute, by resolution of the board of supervisors, assign said certificate of sale to any person except the township clerk and township treasurer, who shall pay the amount for which the same shall have been bid in, and any amount paid by the civil township for the redemption of such premises from sale for general delinquent taxes with interest thereon from the sale of such assessment, and the amount of all subsequent special assessments thereon then due, and all penalties, interest and costs upon the same, and the township clerk shall thereupon execute to the purchaser of such certificate of sale an assignment thereof, substantially as provided in section 1588 of the revised codes. In case such lands are not redeemed from such sale, the county auditor shall at the expiration of the period of redemption issue a deed thereof to such civil township if such certificate has not been assigned by it, and if so assigned, then to the holder of such certificate; provided, that no deed shall be issued on any such certificate except to the township, until notice of expiration of the period of redemption has been given as provided for sales for general taxes.

§ 35. RECORDS. DUTY OF CLERK.] It shall be the duty of the clerk to keep in his office a complete record of all proceedings taken in the matter of making any improvements under this act, including all reports and the confirmation and approval of special assessment thereof, and all petitions, orders, notices and proofs of publication and orders and resolutions of the board of supervisors. Such record or a certified transcript thereof or the original paper, proofs of publication, orders or resolutions on file in his office shall be admitted in evidence without further proof as evidence of the facts therein contained in any court or place in this state.

§ 36. ABBREVIATIONS.] In all proceedings taken for the levy and collection of any special assessments, abbreviations, letters and figures may be used to denote lots, lands and blocks, sections, townships, ranges and parts thereof, years, days of the month, and amounts of money.

§ 37. SPECIAL ASSESSMENTS: LIEN BETWEEN VENDOR AND VENDEE.] As between vendor and vendee all special assessments upon real property for local improvements shall become and be a lien upon the real property upon which the same are assessed from and after the first day of December next after such assessment shall have been certified and returned to the county auditor, to the amount so certified and returned, and no more.

§ 38. SPECIFICATIONS FOR SIDEWALKS.] The board of township supervisors shall by resolution prescribe the width of sidewalks and may establish different widths in different locations, and shall determine and prescribe the kind and quality of material

of which, and the manner in which they shall be constructed, having regard to the business and amount of travel in the vicinity of each; and such resolution shall be specific, and all contracts for the construction of sidewalks shall be let with reference to the same.

§ 39. NOTICE TO BUILD OR REPAIR.] Whenever the board of township supervisors shall deem it necessary to construct, rebuild or repair, except as hereinafter provided, any sidewalk in the township, it shall notify each owner and occupant of any lot or parcel of land adjoining such sidewalk, to construct, rebuild or repair the same at his own expense, and subject to the approval of the board of township supervisors, within the time designated in such notice, by the publication in the nearest newspaper twice, once in each week for two successive weeks, of a notice to said owner or occupant setting forth what work is to be done, and the character of the same as specified in the resolution provided for in the preceding section, and the time within which he is required to do the same. Such notice may be general as to the owner, but must be specific as to the description of the lot or parcel of ground in front of which such sidewalk is to be built, and a copy thereof shall also be served in the manner provided in section 42 of this act.

§ 40. BUILDING BY THE TOWNSHIP.] If such work is not done and the sidewalk is not built, repaired or rebuilt, in the manner and within the time prescribed in said notice, the board of township supervisors shall order the same to be done by such person as they may have contracted with therefor under the direction of the said board of township supervisors, at the expense of the lot or parcel of land adjoining such sidewalk, and such expense, including the expense of all notices in connection with such work and the assessment therefor, and any other expense incurred for such work, shall be assessed upon the lot or parcel of land properly chargeable therewith by the township clerk, and he shall cause to be published the said assessment together with a notice of the time and place when and where the board of township supervisors will meet to approve the same, and said notice shall be published once in the nearest newspaper at least ten days prior to the meeting of the board to approve such assessment.

§ 41. LETTING CONTRACTS FOR SIDEWALKS.] The township clerk shall advertise in the nearest newspaper twice, once in each week for two consecutive weeks, for bids for the construction of the various kinds of sidewalks in accordance with the specifications of the resolution provided for in section 38 of this act, and such bid shall be received and opened and if accompanied by a check and bond as hereinbefore provided, such contract shall be awarded to the lowest bidder and contracts may be awarded to different bidders for the different kinds of sidewalks required.

§ 42. REPAIRS.] Whenever the necessary repair of sidewalks will not in the judgment of the board of township supervisors

exceed in cost the sum of five dollars for each twenty-five feet in front of land belonging to the same owner, they shall notify the township clerk thereof, and the township clerk shall forthwith prepare a notice in writing, which may be general as to the owner of the lot or parcel of land, but describing it specifically, requiring him to repair such sidewalk within a time to be fixed in such notice, not exceeding three days. The township clerk shall forthwith serve it by delivering a copy thereof to the occupant or owner of the parcel of land, if the same is occupied, or by leaving such notice at the dwelling house upon such lot or parcel of land with some person over the age of fourteen years residing therein, or if such lot or parcel of land is not occupied, by posting a copy of such notice in a conspicuous place thereon or immediately in front thereof, and if such sidewalk is not repaired within the time fixed in such notice the board shall, as soon as practicable, repair the same and certify the cost thereof to the township clerk, and the cost of such repairs shall be paid out of the "sidewalk special assessment fund."

§ 43. DUTY OF TOWNSHIP CLERK.] The township clerk shall keep in his office a book called "sidewalk repair special assessment book," and shall enter such cost so certified by the board therein, as a special assessment against the lot or parcel of land adjoining such sidewalk, with the name of the owner, if known to him, and at a meeting in August of each year the township supervisors shall review all such assessments and hear all complaints against the same, and approve the same as finally adjusted.

§ 44. SIDEWALK SPECIAL ASSESSMENT FUND.] All money collected from special assessments for building or repairing sidewalks shall be kept in a fund to be called "sidewalk special assessment fund," and warrants shall be drawn on such fund for the payment of the cost of building and repairing all sidewalks, and the township shall in no case be liable on any contract for the building or repairing of sidewalks for any sum whatever to be paid by money raised by general taxation.

§ 45. PAYMENT OF ONE-FIFTH BY GENERAL TAXATION.] Any township which shall have power under the debt limit provisions of the constitution to create valid obligations to that extent, may, at the option of the board, provide for the payment of not exceeding one-fifth of the cost of any work hereinbefore provided for other than sidewalks, opening and widening streets and sewer and water connections from main to curb line by general taxation of all taxable property in such township, and may contract with reference thereto, and make appropriations and levy taxes therefor in installments annually and extending over the same period as provided for the special assessments for such improvement. Such appropriation and tax levy, if not heretofore included in the annual appropriation, may be made at any time as the occasion may require and be included in the next annual appro-

priation and tax levy. Such appropriation and levy, whether made as a part of the regular annual appropriation and tax levy, or made thereafter, shall state the specific improvement for which such tax is levied and the district in which such improvement is made and the amount thereof shall be credited to and the taxes collected thereunder be turned into and be deemed a part of the fund upon which the warrants issued in payment of the improvement are to be drawn.

§ 46. CONNECTIONS WITH SEWER AND OTHER MAINS.] Whenever the board of supervisors shall determine to pave or repave any street, avenue or alley in which watermains, gas mains, sewers, steam pipes or other pipes, or either of them shall have been previously laid and constructed, they shall, by resolution, require the owners of all property abutting on the said street to cause sewer, water, gas, steam and other service pipes to be first constructed and laid in such street, avenue or alley at the cost of the property fronting thereon, from the sewer, water, gas, steam or other mains in said street, avenue or alley, to a point two feet inside of the curb line on either side of such street, avenue or alley at such intervals along the whole length of such street, avenue or alley as shall be necessary to supply and serve each lot, part of lot or parcel of land. Upon the adoption of such resolution the clerk shall publish in the nearest newspaper twice, once in each week for two successive weeks, a notice to said owner or occupant, setting forth what work is to be done and the time within which he is required to do the same. Such notice may be general as to the owner, but must be specific as to the description of the lot or parcel of land in front of which the improvement is to be made. If such work is not done in the manner and within the time prescribed in said notice, the board shall order the same to be done by such person as they may have contracted with therefor, under the direction of the civil engineer, at the expense of the lot or parcel of land adjoining such improvement, and such expense, including the expenses of all notices in connection with such work and the assessment therefor, and any other expenses incurred for such work, shall be assessed upon the lot or parcel of land properly chargeable therewith by the clerk, and such assessment shall be filed by him in the office of the clerk and the clerk shall cause to be published the said assessment together with a notice of the time and place when and where the board of supervisors will meet to approve the same, and said notice shall be published once in the nearest newspaper at least ten days prior to the meeting of the board of supervisors to approve such assessment. The board, after the adoption of such resolution, declaring the necessity of making the service connections above referred to, shall, by resolution, employ a civil engineer to prepare plans and specifications for same and file with the clerk and shall direct the clerk to advertise for bids for the construction of such connections in accordance with

the plans and specifications for the construction of the same, which plans and specifications shall be filed with the clerk by the civil engineer. Such bids shall be accompanied by a certified check in the sum of five hundred dollars to guarantee the entering into the contract should same be awarded to him. Bids shall be received by the board and the contract awarded to the lowest responsible bidder. The successful bidder shall give a surety bond in the sum of one thousand dollars, executed by such bidder and a surety company as surety, or by two freeholders of the state who shall justify as required in arrest and bail, and the aggregate of such justification shall equal the amount of such bond and such bond shall be conditioned that in case such bid is accepted and such contract awarded to such bidder he will well and faithfully perform the work bid for in accordance with the terms of and within the time provided for in such contract, and pursuant to the plans and specifications for such work on file in the clerk's office, and pay for all labor and material used in such work, and that in case of default on the part of such bidder to perform such work as provided in his contract the sum named in said bond shall be taken and held to be fixed and liquidated damages in favor of said township and that the full amount thereof may be recovered from such bidder and his sureties in an action by the township against them on such bond. Such bond shall be approved by the board and filed in the office of the clerk and shall thereupon be and remain in full force and effect. Upon the award of the contract the checks of all unsuccessful bidders shall be returned to them, and upon the filing of such bond the check of the unsuccessful bidder shall be returned to him. The board shall have the right to reject any and all bids for work to be done under this section if, in its opinion, the interests of the township will be best subserved by so doing, and readvertise for further bids, but if all such bids are not rejected the contract shall then be awarded to the responsible bidder whose bid is the lowest upon the basis of cash payment therefor, provided such bidder shall have complied with the foregoing requirements and furnished the bond hereinbefore provided for. All contracts entered into for any work provided for in this section shall be entered in the name of the township and shall be executed on the part of the township by the chairman of the board of supervisors and countersigned by the clerk with the corporate seal affixed, and when signed by the contractor shall be filed in the office of the township clerk. Such contract shall require the work to be done thereunder to be done pursuant to the plans and specifications therefor on file in the office of the clerk and subject to the approval of the civil engineer, who shall supervise and inspect such work during its progress and there shall be reserved in each contract the right of the board of supervisors in case of improper construction of such work, to suspend work thereon at any time and to relet the contract therefor, or order a reconstruction of said work

or any part thereof improperly done. Each contract so entered into shall state the time on or before which such work must be completed, and must state from what fund the amount to be paid thereon by the township is to be paid, and that the consideration of such contract is payable only in warrants drawn on such fund, and that such township assumes and incurs no general liability under such contract.

§ 47. CITIES AND TOWNSHIPS TO PAY FOR IMPROVEMENTS ON STREETS AND HIGHWAYS.] The expense of improving streets and highways lying on the boundary line between any such city and township, under this act, may be done and paid for by such city and by such township in such proportion as may be mutually agreed on between them, and any such incorporated city may permit such township to connect with its sewer system and watermains, on such terms as shall be just and fully compensate said city therefor and for all water furnished to said township mains.

§ 48. PROVISIONS THIS ACT CONTINUATION EXISTING STATUTES.] The provisions of this act, so far as they are the same as existing statutes, must be construed as continuations thereof and not as new enactments.

§ 49. REPEAL.] Article 5 of chapter 33 of the revised codes of 1905 is hereby repealed.

§ 50. EMERGENCY.] Whereas, an emergency exists in that the present law in force relative to paving and other public improvements in certain civil townships in its provisions are difficult of construction, therefore this act shall take effect from and after its passage and approval.

Approved March 14, 1907.

CHAPTER 253.

[H. B. No. 46—Piper]

DUTIES OF ROAD OVERSEER.

AN ACT Amending Section 1116 of the Revised Codes of 1895, Being Section 1410 of the Revised Codes of 1905, Relating to the Duties of Road Overseers.

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

§ 1. AMENDMENT.] Section 1410 of the revised codes of 1905 of North Dakota is hereby amended to read as follows:

§ 1410. DUTIES OF OVERSEERS OF HIGHWAYS.] The overseers of highways in each township 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 deem proper, collect all fines and commutation money, execute all lawful orders of the supervisors, and deliver to the township clerk within sixteen days after his election or appointment, a list subscribed by such overseer, of the names of all inhabitants of his road district who are liable to work on the highways; provided, it shall be unlawful for any road overseer to perform any road work by contract for any person, corporation or company, during his incumbency in the office. Any road overseer who violates any of the provisions of this act, shall be subject on conviction to a fine not exceeding \$100, or imprisonment in the county jail for a period not exceeding ten days.

§ 2. EMERGENCY.] Whereas, an emergency exists inasmuch as there is no law in force prohibiting road overseers from taking contract work, therefore, this act shall take effect on and after its passage and approval.

Approved February 16, 1907.

CHAPTER 254.

[H. B. No. 189—Johnson of Sargent]

HIGHWAYS ON COUNTY AND TOWNSHIP LINES.

AN ACT to Amend Section 1367 of the Revised Codes of 1905 of North Dakota, Relating to Highways on County and Township Lines.

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

§ 1. AMENDMENT.] Section 1367 of the revised codes of North Dakota of 1905 is amended to read as follows:

§ 1367. HIGHWAYS ON COUNTY AND TOWNSHIP LINES.] Public highways established on county or township lines, or public highways to be laid out parallel and adjacent to county or township lines, where such lines are occupied by a railroad or other obstructions shall be opened, established, and repaired by the supervisors of the proper road districts on each side thereof, and by the joint labor of the persons in each of such districts in each county or township.

§ 2. EMERGENCY.] An emergency exists inasmuch as there is no law providing for procedure where county and township lines are so occupied, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

CHAPTER 255.

[H. B. No. 92—Hemmingsen]

POWERS OF ELECTORS AND SUPERVISORS IN ORGANIZED
TOWNSHIPS.

AN ACT to Amend Sections 3063 and 3133 of the Revised Codes of the State of North Dakota of 1905, Relating to the Powers of Electors and Supervisors in Organized Townships.

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

§ 1. AMENDMENT.] Section 3063 of the revised codes of 1905 is amended to read as follows:

§ 3063. POWERS OF ELECTORS.] The electors of each township have power at the annual township meeting:

1. To determine the number of pound masters and the location of pounds.
2. To select such township officers as are required to be chosen.
3. To direct the institution or defense of actions in all controversies where such township is interested.
4. To direct such sums to be raised in such township for the prosecuting or defending such actions as they may deem necessary.
5. To make all rules and regulations, for impounding of animals.
6. To impose such penalties on persons offending against any rule or regulation established by the township, as they think proper, not exceeding ten dollars for each offence, except as herein otherwise provided.
7. To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the township.
8. To ratify or reject recommendations offered by the township board of supervisors for the expenditure of funds for the purpose of purchasing building sites and purchase, location, erection or removal of any building or erection for township purposes; provided, that no such recommendation shall be adopted otherwise than by a two-thirds vote of the electors present and voting at any annual township meeting.

§ 2. AMENDMENT.] Section 3133 of the revised codes of 1905 is amended to read as follows:

§ 3133. POWERS OF SUPERVISORS.] The supervisors shall have charge of such affairs of the township as are not by law committed to other township officers, and they shall have power to draw orders on the township treasury for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the township and for all moneys raised by the township to be disbursed for any other purpose, and when it shall seem ad-

visible by said board of supervisors, they may recommend to the electors of their township the expenditure of a stated amount, for the purpose of purchasing building sites and purchase, erection, location or removal of any building or erection for a town hall, library building or other erection for the use and benefit of said township.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law now providing for the purchase, erection, location, or removal of township buildings this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1907.

CHAPTER 256.

[S. B. No. 71—Stade]

REPEALING CONFLICTING LAW RELATING TO TOWNSHIP OFFICERS.

AN ACT to Repeal Section 3111 of the Revised Codes of North Dakota, 1905, Relating to the Term of Office of Township Officers.

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

§ 1. REPEAL.] Section 3111 of the revised codes of North Dakota, 1905, is hereby repealed.

§ 2. EMERGENCY.] Whereas, an emergency exists in that said section is in conflict with section 3062, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.