

THE *J. Rogers*
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE
ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

Edited and Published under the authority of Chapters 15 and 16 of
the Laws of 1866.

ST. PAUL.
PUBLISHED BY DAVIDSON & HALL,
STATE PRINTERS, 170 THIRD STREET.
1872.

evidence that either of such officers have been guilty of malfeasance or nonfeasance in the performance of his official duties, first giving to such officer a copy of the charges against him, and an opportunity to be heard in his defense.

Vacancy happen-
ing during recess
of legislature,
how filled

SEC. 4. Whenever a vacancy occurs during the recess of the legislature, in any office which the legislature, or the governor, by and with the advice and consent of the senate, or of both branches of the legislature, are authorized to fill by appointment, the governor, unless it is otherwise specially provided, may appoint some suitable person to perform the duties of such office for the time being.

Appointees to
qualify, how.

SEC. 5 Each of the persons appointed in pursuance of the preceding section, shall, before proceeding to execute the duties assigned him, qualify in the same manner as required by law of the officer in whose place he is appointed; and he shall continue to exercise and perform the powers and duties of the office to which he is so appointed, until such vacancy is regularly supplied, as provided by law.

Appointment,
how long to con-
tinue.

SEC. 6 In all offices not otherwise provided for, when a vacancy is authorized to be filled by appointment, such appointment shall continue until the next general election occurring after there is sufficient time to give the notice prescribed by law, and until a successor is elected and qualified.

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TOWNSHIP ORGANIZATION.

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SECTION 1. Whenever a majority of the legal voters of any congressional township in this state 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.

Town, how organized.

SEC. 2. 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 creeks so divide a township as to make it inconvenient to do town business, the fraction so formed may be disposed of as other fractions; and any township 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 interests of such town will be subserved thereby, proceed to divide such township in such manner as will best suit the convenience of the people.

Fraction of township, how organized.

SEC. 3. 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.

Towns, how named.

SEC. 4. 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 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.

County commissioners to make and post notices.

SEC. 5. Each county auditor shall, within thirty days after such town is organized, transmit by mail to the auditor of state, an abstract of such report, giving the bounds of each town, and the name designated; and said county auditor shall record, in a book for that purpose, a full description of each town.

County auditor to send abstract of report to state auditor.

SEC. 6. If the auditor of state on comparing the abstract of the reports from the several counties, finds that any two or more townships have

Proceedings when two towns have same name

the same name, he shall transmit to the auditor 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 of the county shall inform the state auditor as before directed.

Boundaries of towns to remain as now.

SEC. 7. 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.

Powers.

SEC. 8. 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.

Limitation of powers.

SEC. 9. No town shall possess or exercise any corporate powers except such as are enumerated in this chapter, or are especially given by law, or necessary to the exercise of the powers so enumerated or granted.

Proceedings to be in name of town.

SEC. 10. 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.

By-laws, when to take effect.

SEC. 11. 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.

Town meetings, when held, how called.

SEC. 12. The citizens of the several towns of this state, qualified to vote at general elections, shall annually assemble, and hold town meetings in their respective towns, on the first Tuesday of April, 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.

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Three supervisors to be elected in each town.

SEC. 13. 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.

Supervisors to be fence viewers.

SEC. 14. The supervisors elected in every town are, by virtue of their office, fence viewers of such town.

Powers of electors at town meetings.

SEC. 15. The electors of each town have power at their annual town meeting—

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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 of defence or 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 ascertaining the sufficiency of fences in such town, and for impounding animals.

Sixth. To determine the time and manner in which cattle, horses, mules, asses and sheep are permitted to go at large: *provided*, that no cattle, horses, mules nor asses be allowed to go at large between the fifteenth of October and the first of April.

Seventh. To impose such penalties on persons offending against any rule or regulation established by said town, except such as relate to the keeping and maintaining of fences, as they think proper; not exceeding ten dollars for each offense, unless herein otherwise provided.

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

Ninth. 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 and road tax of the town to be expended on the highways in an adjoining township 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.

SEC. 16. Special town meetings may be held for the purpose of electing town officers to fill any vacancies that occur, also for the purpose of transacting any other 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 interests of the town. Special town meetings to fill vacancies.

SEC. 17. 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. Town Clerk to make record.

SEC. 18. 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. Notice what to specify.

SEC. 19. The electors present, at any time, between nine and ten o'clock in the forenoon of 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. 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. Town meeting, how organized.

SEC. 20. 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 Business, how transacted.

order of business as 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.

Challenges, how regulated.

SEC. 21. 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.

Qualifications of voters.

SEC. 22. 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.

Minutes of town meeting to be filed.

SEC. 23. 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.

Proclamation of opening of polls, adjournment and closing to be made.

SEC. 24. 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.

Officers, how elected.

SEC. 25. 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.

Names voted for to be on one ballot.

SEC. 26. 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.

Poll list to be kept.

SEC. 27. 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.

Judge to deposit ballots in box.

SEC. 28. When the election is by ballot, one of the judges shall deposit the ballots in a box provided for that purpose.

Canvass of votes to be public.

SEC. 29. 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.

Canvass, how conducted.

SEC. 30. 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, 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.

Result of canvass to be read to meeting.

SEC. 31. 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.

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

Persons elected to be notified.

SEC. 33. Every person qualified to vote at town meetings, is eligible to any town office.

Who are eligible to town offices.

SEC. 34. Every person elected or appointed to the office of supervisor, town clerk, assessor, treasurer, or constable, within 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 State of Minnesota, 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.

Officers to take oath.

SEC. 35. 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.

Certificate of oath to be filed.

SEC. 36. 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.

Effect of not filing oath or bond.

SEC. 37. Every person elected or appointed to the office of overseer of highways or pound master, before he enters on 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.

Overseer of highways and pound masters to file notice of acceptance of office.

SEC. 38. 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.

Treasurer to give bond.

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

Bond to be approved and filed.

SEC. 40. 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, indorse his approval thereon, and cause such bond to be filed with the town clerk for the benefit of any person aggrieved by 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.

Constables to take oath and give bond.

SEC. 41. 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 of the State of Minnesota, 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

Justices to take oath and give bond.

Bond to be approved and filed. dollars, nor more than one thousand dollars, conditioned for the faithful discharge of his official duties. Said chairman shall indorse 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.

Who may sue on bond. SEC. 42. 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.

Effect of neglect to give bond. SEC. 43. 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.

Penalty for entering on duties before taking oath. SEC. 44. Town officers, except justices of the peace and constables, hold their offices for one year, and until others are elected or appointed in 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.

Term of office. SEC. 45. Whenever any town fails to elect the proper number of town officers, or when any person elected to a town office fails to qualify, or whenever any vacancy happens in any town office, from death, resignation, removal from the 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 powers and be subject to the same duties and penalties as if they had been duly elected.

Vacancies, how filled. SEC. 46. 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.

Vacancies in board of appointment, how filled. SEC. 47. 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 and penalties as if they had been duly elected.

Proceedings when town fails to elect officers. SEC. 48. 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.

Supervisors may accept resignations.

SEC. 49. 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.

Powers and duties of supervisors. Laws of 1866.

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SEC. 50. 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 improvements 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.

Supervisors to improve streets, when.

SEC. 51. 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.

To be board of health.

SEC. 52. 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 misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months.

Board of health, powers of.

SEC. 53. 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; 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.

Notice of regulations to be given.

SEC. 54. Whenever any nuisance, source of filth, or cause of sickness, is found on private property, the board of health shall order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours; and if the owner or occupant neglects so to do, he shall forfeit a sum not exceeding fifty dollars, to be recovered in the name of and for the use of the town.

Nuisances may be ordered to be removed.

Penalty for neglect.

SEC. 55. 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.

Board may remove nuisance, when.

SEC. 56. Whenever the board of health thinks it necessary, for the preservation of the health of the inhabitants, to enter any building or vessel in their town, for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth, or cause of sickness, and shall be refused such entry, any member of the board may make complaint under oath to a justice of the peace of his town, stating the facts in the case so far as he has knowledge thereof.

May examine buildings and vessels.

SEC. 57. 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.

Justice shall issue warrant on complaint.

SEC. 58. When any person coming from abroad, or residing in any town within this state is infected or lately has been infected with the small pox or other contagious disease, dangerous to the public health, the board of health of the town where such sick or infected person is, may immediately cause him to be removed to a separate house, if it can be

Infected person may be removed.

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done without danger to his health, and shall provide for him nurses and necessaries, which shall be at the charge of the person, his parents, guardian or master, if able, otherwise at the charge of the town to which he belongs, and if he is not an inhabitant of any town, at the charge of the state.

Provision for, in case of danger by removal.

SEC. 59. If such infected person cannot be removed without danger to his health, the board of health shall make provision as directed in the preceding section, for such person in the house where he may be, and in such case, they may cause the persons in the neighborhood to be removed, and may take such other measures as they may deem necessary for the safety of the inhabitants.

Board shall provide hospital, when.

SEC. 60. 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.

Supervisors shall bring action on official bonds.

SEC. 61. 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, or property belonging to the town, and shall pay all moneys collected under this section to the town treasurer.

Two supervisors a quorum.

SEC. 62. 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.

Town clerk to have custody of town records.

SEC. 63. The town clerk shall have the custody of records, 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.

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Proceedings of town meeting shall be recorded.

SEC. 64. 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.

Town clerk shall take oath and give bond.

SEC. 65. Every person elected or appointed to the office of town clerk in any of the towns of this state, 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.

Name of constable to be sent to clerk of court.

SEC. 66. 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.

Name of justice to be sent to clerk of court.

SEC. 67. 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.

SEC. 68. 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. Neglect to make return, penalty.

SEC. 69. 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. By-laws to be posted.

SEC. 70. The supervisors constitute a town board for the purpose of auditing all accounts payable by said town; and if from any cause there are not three supervisors present, to constitute said board, the chairman, and in his absence, either of the other supervisors, may notify any one, or so many of the justices of the peace of the 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. Supervisors to audit accounts against town.

SEC. 71. 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. Shall meet, when.

SEC. 72. The said 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. Shall audit accounts of town officers.

SEC. 73. Such board shall draw up a 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. Shall draw up report.

SEC. 74. 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. Report shall be read.

SEC. 75. 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 sums due from such town, shall be receivable in payment of town taxes of said town. Treasurer shall pay audited accounts.

SEC. 76. The town clerk shall be the clerk of the town board, and shall keep a true record of all their proceedings in his office. Town clerk to be clerk of town board and record proceedings.

SEC. 77. 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. Duties of treasurer.

Shall keep true account of moneys received and paid out—shall deliver books to successor.

SEC. 78. 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.

Shall draw money from county treasurer.

SEC. 79. 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.

Fees.

Shall make annual statement.

SEC. 80. 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.

Violation of four preceding sections—penalty.

SEC. 81. 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 any person who prosecutes the same, with costs of 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.

Fees of town officers.

SEC. 82. 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 two dollars per day, while engaged in their respective duties as such assessors. The town clerks and supervisors shall receive for their services one dollar per day, when attending to business in their town, and one dollar and fifty cents, when attending to business out of town; no town supervisor shall receive more than twenty dollars, for 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 of writing authorized by law, six cents for each one hundred words; for copying any record or instrument on file in his office, and certifying the same, six cents for each one 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.

SEC. 83. The pound master is allowed the following fees, to wit: Fees and duties of pound masters
 For taking into pound, and discharging therefrom, any horse, ass or mule, and all neat cattle, ten cents each. For every sheep or lamb, three cents each; and for every hog, large or small, five cents; and twenty cents for keeping each head twenty-four hours in pound. And the pound master has a lien 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 are paid; and if the same are not paid and said animals removed within four days after they are so impounded, the said pound master 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 pound master shall expose the said animals for sale, and sell the same to the highest bidder in cash, for which services he shall receive two per cent. of the purchase money for each animal. Out of the moneys realized from said sale, the said pound master 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 animal 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 the said pound master; but if said money is not claimed within that time, then the sum so received shall be retained for the use of said town.

SEC. 84. 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. Actions between towns, how regulated.

SEC. 85. 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. Actions, in what name brought.

SEC. 86. But 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. Town shall plead, when.

SEC. 87. 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. Papers in action, how served.

SEC. 88. No action in favor of any town shall be brought before any justice of the peace residing in such town. Town not to bring action before justice of peace, when.

SEC. 89. 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 Action to recover penalty, how regulated.

town lands in consequence of such trespass, exceeds the sum of twelve dollars and fifty cents, then the amount of actual damage with cost 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.

Other actions,
how regulated.

SEC. 90. 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 right of parties.

Judgment
against town,
how collected.

SEC. 91. 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.

Tax to be levied
to pay judgment,
when.

SEC. 92. 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 and collected as other town taxes are collected.

Town to main-
tain guide posts.

SEC. 93. 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.

Supervisors to
make report of
places where
guide posts are
erected or need-
ed—penalty for
neglect.

SEC. 94. 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.

Town to deter-
mine places
where guide
posts shall be
erected—penalty
for neglect.

SEC. 95. 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.

Guide posts, how
erected and
marked.

SEC. 96. 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 forefinger 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.

SEC. 97. 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.

Neglect to maintain guide-posts penalty for.

SEC. 98. Whenever the electors of any town determine at their annual meeting to erect one or more pounds therein, the same shall be under the care and direction of such pound masters as are chosen or appointed for that purpose.

Pounds to be under care of pound masters.

SEC. 99. The electors of any town may at any annual town meeting, discontinue any pounds therein.

May be discontinued.

SEC. 100. The following shall be deemed town charges:

Town charges, what.

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 aforesaid.

SEC. 101. 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 state and county purposes and expenses.

How levied.

SEC. 102. 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.

Successor to town officer to demand books, &c.

SEC. 103. 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.

Vacancies, how filled.

SEC. 104. 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.

Records, &c., to be delivered to successor.

SEC. 105. Upon the death of any of the officers enumerated, the successor of such officer 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.

Demand and delivery in certain cases, how made.

SEC. 106. Each town organized under this chapter, or any law heretofore in force, constitutes an election district.

Each town an election district.

SEC. 107. 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

Power to contract debts limited.

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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 three mills on the dollar of taxable property for any one year.

Chapter not to apply to cities.

SEC. 108. Nothing in this chapter contained shall in any way apply to any portion of the state 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 other powers, the same powers conferred by this chapter upon towns, in the manner prescribed by law.

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CHAPTER XI.

TAXES.

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