

zens of the Territory, shall be entitled to vote; and all persons possessing the qualifications mentioned in this section, and who have resided in this Territory nine months, shall be eligible to any office in the said Territory.

Sec. 52. That chapter thirty-two of the code, and all other acts or parts of acts conflicting with the provisions of this act, are hereby repealed. Conflicting acts repealed.

Sec. 53. This act shall take effect from and after its passage when take effect and approval.

Approved, January 14, 1864.

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## FEES OF OFFICERS.

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### CHAPTER XX.

#### AN ACT ESTABLISHING THE FEES OF OFFICERS.

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

Section 1. For the services mentioned in this chapter hereinafter, done or performed in the several counties of this Territory, by the officers thereof, or in any proceeding authorized by law, the fees hereinafter prescribed, shall be allowed. Fees of officers.

Sec. 2. The fees of the clerks of the district courts for any services herein specified to be rendered by them, shall be as follows: Fees of clerk of district court.

For issuing and sealing every writ, when filled up by the clerk, one dollar; and each exemplification or certificate, when required, fifty cents.

Entering the return of every writ and filing such writ, fifteen cents per each folio.

Entering an appearance and retraxit, discontinuance, nonsuit, or default, twenty-five cents.

Entering every rule in term, founded on motion, fifteen cents for each folio; entering every other rule or order, fifteen cents

Fees of clerk  
of district court

for each folio; for certified copies of rules, the same fees as for entering such rules.

Every report upon an assessment of damages, or other matter referred to him, fifty cents.

Every certificate, except papers copied and paid for by the folio, twenty-five cents; for calling and swearing a jury, fifty cents; for swearing each witness on trial, ten cents; for swearing officers who take charge of juries, ten cents.

Entering every recognizance, fifty cents.

Entering every cause in a calender for the court, and making a copy thereof for the bar, ten cents.

Receiving and entering a verdict, twenty-five cents.

Entering every cause or suit without process, fifty cents.

Certified copy of the minutes of a trial, when required, fifty cents.

Entering every final judgment, fifteen cents for each debtor.

Drawing a special jury in any case, fifty cents.

Reading and filing a habeas corpus, certiorari or writ of error, twenty-five cents.

For a subpoena, summons, or execution, when issued by a clerk on request, and sealing the same, fifty cents.

Filing a complaint or other pleading on affidavit, or other papers or proceedings, ten cents.

Copies and exemplifications of records and of pleadings to be returned on writ of error or certiorari; copies and exemplifications of all records, pleadings and proceedings furnished on request, fifteen cents for each folio.

Searching the records on file in his office, if a copy is not required, twenty-five cents for the records or files of each year, except for officers of the court.

Receiving and filing the papers of an insolvent, ten cents for each paper filed; copies of such papers, fifteen cents for each folio.

Entering an appeal from justices' courts, fifty cents.

For each blank writ furnished to attorneys with seal for the same, twenty-five cents.

Entering a surrender of bail, twenty-five cents.

Issuing a commission to take depositions, one dollar.

Issuing a venire facias, seventy-five cents; certificate of ju-

rors' or constables' attendance at court, to be paid from the county treasury, each fifteen cents. Fees of clerk of district court.

Entering forfeiture of recognizance, twenty cents.

Entering a discharge of bail, twenty cents.

For entering a declaration to become a citizen of the United States, fifty cents.

For a certified copy of such declaration, under the seal of the court, seventy-five cents.

For entering the final admission of an alien to the rights of citizenship, fifty cents.

For a certified copy thereof under seal of court, seventy-five cents.

For making docket entries of judgments, fifteen cents for each judgment debtor.

Filing and docketing a transcript of judgment from any other county, the same fees as for docketing those originally in his own county.

For docketing, entering the return of, and filing execution, one dollar.

Attendance on court for each day of actual session, to be paid from the county treasury, five dollars.

Sec. 3. The above fees of the clerk of the district court must be paid in advance, except when payment is due from the Territory or county, unless ample security is given, to be approved by the clerk for the payment thereof, when the suit is determined. Fees paid in advance—when.

Sec. 4. When security is given, as contemplated in the preceding section, if the money is not paid at the stipulated time, the security shall be treated as an authority to confess judgment for the proper amount. And the clerk must enter up judgment, either in term time or vacation, and issue execution thereon accordingly. Duty of clerk in certain cases.

Sec. 5. In criminal cases, when the defendant is adjudged to pay the costs, the clerks of the district courts must charge fees as follows: Fees in criminal cases.

On an indictment for a misdemeanor, five dollars; where there is a trial by the court, eight dollars; when by jury, two dollars. In cases of indictment for a felony, double the above

Fees in criminal cases. fees may be charged. In cases of appeals, the same fees in all respects, as are allowed in appeals in civil actions.

## FEES OF JUDGES OF PROBATE.

Fees of Judge of probate.

Sec. 6. For granting letters of administration, when not contested or approved, three dollars; when contested, five dollars.

Hearing any complaint, petition or action, two dollars.

Hearing any application for the appointment of a guardian, two dollars; appointing of a guardian, one dollar; and when one shall be appointed for more than one person at the same time, fifty cents for each person after the first, for whom such guardian shall be appointed.

Decree of probate of a will, when not contested, two dollars; when contested, five dollars.

Decree for settling an estate, ten dollars.

Partition of real estate, two dollars and fifty cents.

Warrant to appraise and divide an estate, two dollars.

Issuing a commission to examine and allow claims against an estate, two dollars.

Ordering an allowance to widows, or children under seven years of age, two dollars.

Approving securities of executors or others, one dollar.

Appointment of agents on real estate, one dollar and fifty cents.

Each order for sale of real estate to pay debts of an estate, two dollars.

Each order for sale of personal estate, one dollar.

Order for publication of any notice, or any ordinary order in proceeding before him, one dollar.

Granting reference of accounts of executors or administrators, or allowing report thereon, one dollar.

Disallowing applications for letters of administration or probate of will, to be paid by the party applying, two dollars.

For a warrant to set off dower, one dollar and fifty cents.

For proportioning an insolvent estate among the creditors, two dollars and fifty cents.

Order for distribution, two dollars.

Extending time for settling an estate, one dollar.

Examining and allowing claims against an estate, one dollar.

For ordering and drawing a quietus, one dollar.

Fees of judge of probate

For examining an inventory, if allowed, fifteen cents for each folio.

Administering an oath to an administrator or other person, certifying the same when necessary, twenty-five cents.

Examining and allowing accounts of executors, administrators, or other persons, ten cents per folio.

For each citation, summons or other process, twenty-five cents.

Approving and filing a bond given, or an appeal, fifty cents.

Each order to divide an estate among heirs, or to set off dower, fifty cents.

Entering and filing a caveat, twenty cents.

Entering the accounts of an executor, administrator, or guardian, fifteen cents for each folio.

Searching the records or files in his office, for each year, twenty-five cents.

Recording wills and the proof thereof, letters of administration, of guardianship, and every other matter required to be recorded, fifteen cents for each folio, and when any will or other matter, is in any other than the English language, twenty cents.

For a translation of any will from any other than the English language, twenty-five cents for each folio.

Copies and exemplifications of the probate of a will or of letters testamentary, or of administration, or of any other proceedings or order, had or made before him, or of any other papers filed or recorded in his office, transmitted on appeal, or furnished on request to any person, fifteen cents for each folio.

#### FEES OF EXECUTORS AND ADMINISTRATORS.

Sec. 7. For actual service, and in lieu of all other fees, two dollars per day and one dollar for each half day, and their actual and necessary disbursements for the benefit of the estate; but the probate court may allow the executors and administrators, in cases of unusual difficulty or responsibility, such further sum as the judge may deem reasonable.

Fees of executors and administrators.

## FEES OF OFFICERS.

## FEES OF WITNESSES.

Fees of witnesses

Sec. 8. For attending in any suit or proceeding, per day, in a court of record, two dollars for each day, and one dollar for each half day.

For attending in any justices' court, or before any officer, person, or board authorized to take the examination of witnesses, two dollars for each day, and one dollar for each half day.

For traveling, at the rate of ten cents per mile in coming to the place of attendance, to be estimated from the residence of such witness, if within the Territory; or from the boundary line of this Territory, which such witness passed in coming, if his residence be out of the Territory.

For the secretary of the Territory, treasurer, auditor, clerk, register of deeds, county surveyor, or judge of probate, attending on a subpoena requiring the same with bills recorded, or other written evidence, shall be entitled to two dollars per day, and for traveling, at the rate of ten cents per mile, coming from the residence of such witness.

## FEES OF SHERIFF.

Fees of sheriff.

Sec. 9. For serving a summons, replevin, or any process issued by a court of law, or a subpoena to appear and answer in chancery, one dollar when service is made on one defendant, and for the service on each additional, fifty cents.

For traveling, in making such services, ten cents per mile, only to be computed in all cases from the court house in the county where service is made, or from the place where the court has usually been held.

For taking a bond of plaintiff in replevin, or taking a bond on the arrest of a defendant, or in any other case where he is authorized to take the same, fifty cents.

For a certified copy of such bond, when requested, twenty-five cents.

For a note of every capias delivered to a defendant, on request, ten cents.

For a copy of every summons or complaint served by him, when made by the sheriff, ten cents for each folio.

For a copy of every other writ when demanded or required by law, fifteen cents.

For serving an attachment for the payment of money or an execution for the payment of money, or a warrant issued for the same purpose, and directed to him by the county treasurer or county commissioner for the collecting of the sum of two hundred and fifty dollars or less, four per cent. Fees of sheriff.

For any sum more than two hundred and fifty dollars, two per cent.

Advertising goods or chattels, lands or tenements, for sale on an execution, if the sale be made, one dollar.

If the execution be stayed or settled after advertising and before sale, fifty cents.

The fees allowed by law, and paid to any printer, by such sheriff, for publishing any advertisement for the sale of any real estate, for not more than six weeks, and for publishing the postponement of any such sale, shall be paid by the party requiring the same.

Fees herein allowed by the service of an execution, and advertising thereon, shall be collected by virtue of such execution, in the same manner as the sum therein denoted to be levied; but when there shall be several executions against the defendant at the time of advertising his property in the hands of the same sheriff, there shall be but one advertising fee charged on the whole, and the sheriff shall select on which execution he shall secure the same.

For every certificate on the sale of real estate, fifty cents, and for each copy thereof twenty-five cents, which together with the register's fees for filing the same, shall be collected as fees on execution.

For drawing and executing a deed pursuant to a sale of real estate, one dollar to be paid the grantee in such deed.

For serving a writ of possession, or of restitution, putting any person entitled into possession of premises, removing the occupant, one dollar, and the same compensation for traveling as is herein allowed on other writs.

Taking a bond for the liberties of the jail, fifty cents.

Summoning a jury upon a writ of inquiry, attending such jury and making and returning the inquisition, one dollar and fifty cents.

Summoning a special jury struck pursuant to an order of the

Fees of sheriff: court, and returning the panel, one dollar and twenty-five cents.

Bringing up a person upon a habeas corpus, to testify or answer in any court, one dollar, and for traveling each mile from the jail fifteen cents.

For attending any court with such prisoner, one dollar and fifty cents per day, and actual necessary expenses.

Bringing up a person upon a habeas corpus, with the cause of his arrest and detention, one dollar, and for each mile traveled from the jail, fifteen cents.

Attending before any officer with a prisoner for the purpose of having him surrendered in exoneration of his bail, or attending to receiv[ing] a prisoner so surrendered, who was not committed at the time, and receiving such prisoner in his custody in either case, one dollar and fifty cents.

Attending a trial when ordered by the court, one dollar and fifty cents per day, including the time occupied in going and returning.

Serving an attachment upon any ship, boat, or vessel in proceedings to enforce a lien thereon created by law, one dollar, with such additional compensation for his trouble and expenses in taking possession of and for serving the same as the officer issuing the same shall certify to be reasonable.

For making and returning an inventory, and appraisal of property attached in any case, one dollar and fifty cents for each day actually employed, and seventy-five cents for each half day, and for drafting the inventory, twenty-five cents for each folio, and for copying the same, ten cents for each folio.

For selling any ship, boat, or vessel, or the tackle, apparel and furniture thereof so attached, and for advertising such sale, the same fees as for sales on executions.

For giving notice of any general or special election to the inspectors of the different townships and wards in the county, twenty-five cents each, for each copy of notice, and ten cents for traveling one way, and expenses of publishing such notice as required by law, such fees and expenses to be paid by the county, as other contingent expenses thereof.

For any services which may be rendered by a constable, the fees as are allowed for such services to a constable.



For summoning grand or petit juries to attend the district court, fifty cents for each juror summoned. Fees of sheriff.

Serving a subpoena for a witness, fifty cents for each witness summoned, and ten cents for each mile actually traveled in going, but when two or more witnesses live in the same direction, traveling fee shall be charged only from the farthest.

For mileage on every execution, ten cents a mile for going, to be computed from the court house in [the] county.

For selling lands on a foreclosure of a mortgage by advertisement, and executing a deed to the purchaser, and for all services required on such sale. three dollars.

#### FEES OF CORONERS.

Sec. 10. For all services rendered by them, the same fees as Fees of coroner are herein allowed to sheriff for similar services.

For confining a sheriff in any house on a civil process, one dollar, for each day, to be paid by such sheriff before he shall be entitled to be discharged from such confinement, unless otherwise ordered by the court.

#### FEES OF CONSTABLES.

Sec. 11. For serving a warrant or other writ, not being provided for, on each person named therein, twenty-five cents. Fees of constables.

For copy of every summons delivered on request, or left at the place of residence of the defendant, fifteen cents.

For serving a summons or subpoena on each party or name therein, twenty cents.

For serving an attachment, fifty cents.

For each copy of an attachment, twenty cents.

For each copy of inventory of property seized on an attachment, twenty cents.

For issuing summons on garnishee, fifty cents.

For a copy of an affidavit or other paper not otherwise enumerated, ten cents per folio.

For posting up each notice, twenty cents.

For each mile actually traveled to serve any process, to give or post up notice, ten cents.

Committing to prison, fifty cents.

For summoning a jury, one dollar.

## FEES OF OFFICERS.

Fees of constables.

For writing a list of the jurors, twenty cents.

For attending a jury, fifty cents.

On all sums made on execution and paid over, charged upon defendant, five per cent.

For notifying a plaintiff of a service of a warrant or summons or attachment returnable, fifteen cents.

For serving every writ of replevin, fifty cents.

For summoning and swearing appraisers, and taking appraisement, one dollar.

For taking and approving security in any case, twenty-five cents.

Sec. 12. When the services mentioned in the last section are performed by any other person, the same fees shall be allowed as constables receive, and no more.

## FEES OF NOTARIES PUBLIC.

Fees of notary public.

Sec. 13. For drawing a copy of protest of the non-payment of a promissory note, or bill of exchange, or of the non-acceptance of such bill, one dollar, in the case where by law such protest is necessary, but in no other case.

For drawing a copy of any protest, fifty cents.

For drawing a copy and serving every notice of non-payment of note, or non-acceptance of a bill, fifty cents.

For drawing any affidavit or other paper or proceeding for which provision is not herein made, twenty-five cents for each folio, and copying the same, ten cents for each folio.

For taking the acknowledgment of deeds, and for other services, authorized by law, the same fees as are allowed to other officers for similar services.

## FEES OF JUSTICES OF THE PEACE.

Fees of justices of the peace.

Sec. 14. For a summons, warrant, or subpoena twenty-five cents.

For a venire for a jury, twenty-five cents.

For a warrant in a criminal case, twenty-five cents.

For taking a recognizance of bail, twenty-five cents.

For administering an oath, fifteen cents.

For certifying the same when administered out of court, fifteen cents.

For a writ of attachment, twenty-five cents.

Fees of Justices  
of the peace.

- For entering a judgment, twenty-five cents.
- For every judgment, fifteen cents.
- For every bond, recognizance, or security, directed by law to be taken and approved by the justice, twenty-five cents.
- For swearing a jury, twenty-five cents.
- For taking an examination, deposition, or confession, per folio, fifteen cents.
- For copy of proceedings of any paper, or examination in any case, when demanded, fifteen cents per folio.
- For entering a satisfaction of judgment, twenty five cents.
- For entering amicable suit, without process, twenty-five cents.
- For a transcript of judgment, twenty-five cents.
- For opening a judgment for re-hearing, twenty-five cents.
- For filing every paper required to be filed, ten cents.
- For issuing notice to take depositions, twenty-five cents.
- For taking recognizance, certifying oath or affidavit, and making return to an appeal, seventy-five cents.
- For making return to writ of certiorari, per folio, fifteen cents.
- For a search warrant, twenty-five cents.
- For every affidavit or other paper drawn by a justice, for which no allowance is made by law, per folio, fifteen cents.
- For a commitment to jail, twenty-five cents.
- For an order to bring up prisoner, twenty-five cents.
- For an order to discharge prisoner, issued to jailer, twenty five cents.
- For discharging a prisoner after a hearing on motion to discharge, twenty-five cents.
- For an execution, twenty-five cents.
- For every other writ, not herein enumerated, twenty-five cents.
- For taxing costs, fifteen cents.
- For marrying and making return thereof, one dollar and fifty cents, and such other sum as may be allowed by the party making the application.
- For holding an inquisition in cases of forcible entry and detainer, in addition to other fees, one dollar.

Fees of justices  
of the peace.

For taking and certifying the acknowledgments of a deed, for each grantor named therein, twenty-five cents.

For traveling to perform any duty, when not otherwise provided for, and such travel is necessary, ten cents per mile for going only.

#### FEES OF REGISTER OF DEEDS.

Fees of register  
of deeds.

For entering and recording any deed or other instrument, ten cents per folio, to be paid when the same is left for record.

For every certificate, twenty-five cents.

For copies of any records or papers, when required, ten cents for each folio.

For recording any deed or other paper in any other than the English language, twenty cents for each folio.

For every entry of a discharge of a mortgage, in the margin of the record, twenty-five cents.

For filing every other paper, and making an entry thereof, when necessary, ten cents.

Searching for every such paper on request, five cents for every such paper examined.

For searching the records, ten cents.

Table of fees to  
be posted in of-  
fice.

Sec. 16. Every officer whose fees are hereinbefore ascertained, limited and appointed, shall publish and set up in his office fair tables of his fees, according to this chapter, for the inspection of all persons who have business in such office.

Fees of this  
chapter to apply  
—when.

Sec. 17. The allowance of any fees by this chapter, shall not apply to any case where special provision is otherwise made by law for any particular service, but the fees for such service shall be such as are provided in the statute requiring the service or providing the compensation therefor.

The term folio—  
how construed.

Sec. 18. The term folio, when used as a measure for computing fees or compensation, shall be construed to mean one hundred words, counting every figure necessarily used as a word; and any portion of a folio, when in the whole draft or paper there shall not be a complete folio, and when there shall be an excess over the last folio, shall be computed as a folio.

Officer shall not  
receive greater  
fee or reward.

Sec. 19. No judge, clerk, justice, sheriff, or any other officer whatever, or other person to whom any fees or compensation shall be allowed by law for any service, shall take or receive

any other or greater fee or reward for such services but such as is or shall be allowed by the laws of this Territory.

Sec. 20. Prospective costs may be charged and taxed for filing decree and for one execution. Prospective costs charged—when.

Sec. 21. Every officer upon receiving any fees for any official duty or service shall, if required by the person paying the same, make out in writing, and deliver to such person a particular account of such fees, specifying for what they respectively accrued, for which he shall receive payment by the folio, and shall give the same receipted to the party asking the same. Officer shall make out list of fees when required.

Sec. 22. That all acts and parts of acts, so far as they conflict with this act are hereby repealed. Conflicting acts repealed.

Sec. 23. This act shall take effect from and after its passage and approval. When take effect

Approved, January 14, 1864.

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## GUARDIANS

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### CHAPTER XXI.

#### AN ACT PROVIDING FOR THE APPOINTMENT OF GUARDIANS, AND PRESCRIBING THEIR DUTIES.

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

Section 1. The father is the natural guardian of the persons of his minor children. If he dies or is incapable of acting, the mother becomes the guardian. Who is natural guardian.

Sec. 2. The natural and actual guardian of any minor child may, by will, appoint another guardian for such minor. If, without such will, both parents be dead or disqualified to act as guardian, the probate court may appoint one. Who may appoint guardian.