

Telephones.

CHAPTER 110.

AN ACT to Amend Chapter 132 of the General Laws Passed at the Fourteenth Session of the Legislative Assembly of this Territory.

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

§ 1. TELEPHONE COMPANIES GRANTED CERTAIN RIGHTS.] That section 3 of chapter 132 of Session Laws of 1881, be, and the same is, hereby amended by adding after the words "telegraph line" in the second line thereof the words "or telephone line or exchange," and by adding after the word "public" in the third line thereof the words "grounds, streets, alleys."

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 That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. That this act shall take effect and be in force from and after its passage and approval.

Approved, March 9, 1883.

Texas and Cherokee Cattle.

CHAPTER 111.

IMPORTATION OF CERTAIN CATTLE FORBIDDEN AT CERTAIN TIMES.

AN ACT to Prohibit the Importation of Texas and Cherokee Cattle into the Territory of Dakota and for other purposes

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

§ WHEN UNLAWFUL.] That it shall be unlawful for any person or persons, railroad company or other corporation or any association of persons to bring into this Territory any Texas or Cherokee cattle except between the first day of November of each year and first day of February following ;

Provided, That the right to bring into this Territory any such cattle shall in no case be any defense for any injury sustained by any one by reason of the bringing of such cattle into this Territory.

§ 2. UNLAWFUL TO HAVE IN POSSESSION.] That it shall be unlawful for any person or persons, railroad company or other corporation or association of persons whatever within this Territory, to own or have in possession or control any Texas or Cherokee cattle at any time which may have been brought into this Territory at any time except between the first day of November of each year and the first day of February following:

§ 3. PENALTY FOR VIOLATION.] That any person or persons who shall bring into this Territory or cause to be brought therein, any Texas or Cherokee cattle except at the time permitted in section one, or who shall own, possess or control any such cattle except as allowed in section two, shall be guilty of a misdemeanor and *in* shall be liable to indictment and conviction, fine and imprisonment, and shall be fined upon conviction in any sum not exceeding ten thousand dollars nor less than two hundred dollars, and in addition to such fine may be imprisoned in the discretion of the court. Any such person may in the first instance be brought before any justice of the peace and be held to bail to appear before the district court in the county or subdivision where such justice of the peace shall reside to answer to any charge as may be preferred against him; and any railroad conductor or servant, agent or officer of any railroad who shall bring any such cattle into this Territory upon any railroad or vessel connecting with such railroad, or carry any such cattle upon any railroad or vessel connecting therewith from one point to another within this Territory, shall be deemed to have possession of such cattle within the meaning of this section.

§ 4. DISPOSITION OF FINES.] That any and all fines which may be collected under section three shall be paid into the county treasury and be subject to the order of the board of county commissioners for the purpose of being divided *pro rata* among the persons who may have suffered loss or damage on account of any such cattle being brought into or being within this Territory, upon proof of loss or injury, in such manner as said board shall direct, but if no proof of such loss or injury shall be made to such board of county commissioners within one year after the collection of any such fine, then it shall be the duty of such board to order the said county treasurer to credit such fine or fines to the common school fund of the county to be used in payment of teachers of common schools.

§ 5. WHO LIABLE FOR DAMAGE.] That whenever in any case

any damage or loss shall or may be occasioned to any person or persons resulting in any manner from any such Texan or Cherokee cattle having been brought into this Territory at any time by any person or persons, railroad company or any other corporation or association of persons, then such person so bringing into, or owning, possessing or controlling such cattle in this Territory shall be liable jointly or severally to any person or persons who may suffer loss or damage by reason of such bringing or conveying into, possessing, owning or controlling within the Territory any such cattle; and that [in] any action for the recovery of damages or compensation for any loss or damage which may be sustained by any person or persons from any such cattle, it shall be sufficient for the plaintiff or plaintiffs to show that the injury of which he or they may complain arose from any such Texas or Cherokee cattle which may have been owned or had in possession or brought into the Territory at any time within the year by any such defendant or that such cattle so brought in, owned or possessed had been where such loss or damage had been sustained. And it shall not be necessary for the plaintiff to show that the injury of which he may complain accrued while any such Texas or Cherokee cattle were in the possession or ownership or control of any such defendant or defendants, it being the intention of this section to make all persons or corporations liable to injured persons in the first instance for any injury which may arise from disease spreading or communicating from such Texas or Cherokee cattle so brought into or owned, possessed or controlled by them in this Territory.

§ 6. NO DEFENSE.] That the right to bring into this Territory, Texas or Cherokee cattle between the first day of November of each year and the first day of February following, shall in no case be any defense for any loss or damage that may accrue from such cattle to any person; nor shall any right to own, possess or control any such cattle in any case be any defense for any injury or loss which may arise to any person by reason of such right to own, possess or control such cattle.

§ 7. PROOF TO ENTITLE PLAINTIFF TO RECOVER.] That in all actions or prosecutions for any loss or injury which may arise or accrue to any person or persons by reason of any injury or loss done or caused to be done to any native or domestic cattle, from or by any such Texas or Cherokee cattle, the proof of the loss of any native or domestic cattle, or any damage thereto and the amount of such loss or damage, any proof that any such defendant or defendants brought into this Territory or owned, possessed or controlled in this Territory at any time, any such Texas or Cherokee cattle, which may have caused such injury or loss shall, *prima facie* entitle the plaintiff or plaintiffs to recover. And it shall be competent for any jury to render a verdict and any court

or justice of the peace to render a judgment in any such case upon the opinion of witnesses as to whether or not any such Texas or Cherokee cattle caused the injury complained of in such action.

§ 8. PROCEEDINGS WHEN CATTLE ARE SPREADING DISEASE.] That in case any such Texas or Cherokee cattle shall be found spreading or communicating any disease among the native domestic cattle of this Territory, it shall be the duty of any judge of the District Court, or justice of the peace, upon oath of any householder setting forth that such Texas or Cherokee cattle are spreading or communicating disease among native or domestic cattle within this Territory, and the name of the owner or party in whose possession or control such Texas or Cherokee cattle may be, to forthwith issue a warrant to any sheriff or constable of the county or township, commanding him forthwith to arrest and imprison in some safe place such cattle so spreading or communicating disease, and to summon the owner thereof, or the person or persons found in the possession of such Texas or Cherokee cattle, to appear forthwith before such judge or justice of the peace, and show cause why such Texas or Cherokee cattle shall not be impounded until the first day of November following, and after allowing the prosecuting witness and any such defendant named in such warrant reasonable time to be heard, the said judge or justice of the peace shall proceed to hear and determine whether such Texas or Cherokee cattle have so spread or communicated disease; it shall be the duty of such judge or justice of the peace to order the officer in charge of such Texas or Cherokee cattle to impound them and *and* keep them to themselves until after the first day of November following, when it shall be the duty of the officer in charge of such cattle so impounded to present to the owner or person entitled to the possession of such cattle, a sworn statement of the costs of taking and keeping and impounding such cattle, including the cost of building the pound and providing materials for the same in case the board of county commissioners or township supervisors where such cattle were impounded had ordered the pound to be built for the purpose of impounding such cattle, and demand payment of the same together with the costs of such trial aforesaid; and upon payment of the same he shall deliver such cattle to the owner or person entitled to the possession thereof.

§ 9. DEFINITION OF TEXAS CATTLE.] That Texas or Cherokee cattle as mentioned in this act shall be taken to mean a class or kind of cattle without reference to where they may have come from:

Provided, That that portion of this Territory west of the Missouri river is exempted from the provisions of this act; but the right to bring into, own, possess or control such cattle in such exempted territory, shall give no right to send, convey or cause to

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

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

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

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

Note by the Secretary of the Territory.

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

GEO. H. HAND,
Secretary of the Territory.

Township Government.

CHAPTER 112.

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

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

CHAPTER I.—TOWNSHIP ORGANIZATION.

I.—TOWNSHIPS, HOW ORGANIZED AND NAMED.

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