

school districts, are authorized and it is hereby made their duty to adjust the same either by agreement or arbitration, and to issue such bonds, warrants and certificates of indebtedness in effecting such settlements, as to them may seem just and equitable, and all bonds, warrants and certificates of indebtedness so issued shall in law have full force and effect, provided, that the officers of such school townships or districts, and of such independent school districts and cities are authorized to pay any officer upon whom shall devolve any special duties in consequence of such settlement a reasonable compensation for his services.

§ 2. EFFECT WHEN.] This act shall take effect on and after its approval; and all acts general or special, in conflict herewith, are hereby repealed.

Approved, March 7, 1889.

SOLDIERS' HOME.

CHAPTER 114.

ESTABLISHMENT AND PROVISION FOR SAME.

AN ACT, To Establish, Locate and Build a Soldiers' Home in the Territory of Dakota, and Provide the Necessary Funds Therefor.

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

§ 1. INSTITUTION CREATED.] That there be and is hereby created and established in this Territory an institution to be known as the Dakota Soldiers' Home, and in accordance with the resolution adopted by the Grand Army of the Republic, department of Dakota, at its fifth annual encampment, held at Redfield in March, 1888, which was as follows, viz; Whereas, we, the soldiers and delegates of the Grand Army of the Republic, assembled in annual encampment in Redfield, Dakota, believing it is our duty to recommend a place for location of the Soldiers' Home, be it resolved, that we recommend the Hot Springs of Dakota as the place, provided the Home shall be guaranteed the free use of the springs.

Therefore, the said Dakota Soldiers' Home shall be and is hereby located at the Hot Springs in Fall River county, Territory of Dakota. *Provided*, that a tract of land of not less than eighty (80) acres,

located at the said Hot Springs shall be donated to the Territory of Dakota.

The said tract of land to be the one selected and approved of by a committee of the Grand Army of the Republic, appointed for that purpose at the fifth annual encampment of that body, and to be conveyed to the Territory of Dakota by a good and sufficient warranty deed accompanied by a good abstract of title which shall be approved by the Attorney General of the Territory, showing that a perfect conveyance of title in fee simple has been made to the Territory of Dakota, and also provided that the owners and proprietors of the waters known as the Hot Springs of Dakota, shall by a good and sufficient contract guarantee to the Territory of Dakota, to furnish for the use of any public building or buildings that may be erected on said granted land, all the water required for every purpose whatever.

And that all inmates of said Soldiers' Home or public building or buildings shall have free of all charges all the water that may be required for baths or bathing purposes from the best medical hot springs known to that section, so long as the said building or buildings shall be used as a public institution.

§ 2. OBJECT.] The object of the Dakota Soldiers' Home shall be to provide a home and subsistence for all honorably discharged soldiers, sailors and marines who have served in the army or navy of the United States, and who are disabled by disease, wounds, old age or otherwise; *Provided*, that no applicant shall be admitted to said Home who has not been a resident of this Territory at least one year next preceding his application for admission therein; unless he served in a Dakota regiment or company, or was accredited to the Territory of Dakota.

The board of commissioners shall determine the eligibility of applicants for admission to said home as herein provided.

§ 3. USE OF SAME.] Should there be a division of this Territory, and more than one state created therefrom, it is provided that any state that may hereafter be created from the present Territory of Dakota shall have the privilege of using the said Home for all honorably discharged soldiers, sailors or marines residing within the limits of said state until such time as the said state may provide themselves with a Soldiers' Home and upon such terms as will cover the actual expenses of maintaining such inmates.

And it is further provided that the bonds of the Territory of Dakota issued for the construction of a Soldier's Home shall be assumed and paid by the state that may hereafter be created from the present Territory of Dakota in which the said Soldiers' Home may be located.

§ 4. BONDS FOR BUILDINGS.] To provide for the erection and completion of suitable buildings and fixtures, also for the furnishing and equipping of the same, the bonds of this Territory shall be issued to the amount of forty-five thousand dollars (\$45,000) in denomination of one thousand dollars (\$1,000) each, bearing date May 1st, A. D. 1889, with interest payable semi-annually at financial

agency in the city of New York or Boston, to be specified in said bonds, on the 1st day of July and January in each year, at a rate of interest not exceeding five (5) per cent per annum and running twenty (20) years from the first day of May, 1889, such bonds to be executed for the Territory of Dakota and under the seal thereof by the governor and treasurer and shall be attested by the secretary and shall be negotiated by the Treasurer of the Territory, whose duty it shall be to receive sealed proposals for the purchase of said bonds, after giving notice of thirty (30) days in two newspapers of general circulation, one of which shall be published in the Territory and the other in the city of New York, and said bonds shall be sold to the highest bidder for cash; *Provided*, however, that the bonds, issued under the provisions of this act, shall not be sold for less than their par value.

§ 5. TAX.] For the purpose of prompt payment of principal and interest of the bonds herein provided there shall be levied by the Territorial board of equalization at the time the other taxes are levied and collected, in the same manner as other Territorial taxes are levied and collected, such sums as are sufficient to pay such interest and the exchange thereon as the same shall become due and twelve years after the said 1st day of May, 1889, in addition thereto a sinking fund tax shall be annually levied sufficient to retire and pay said bonds at their maturity, and no tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose.

§ 6. APPROPRIATION.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of funds herein provided to pay either principal or interest upon such bonds when due he shall pay such principal and interest out of any other unappropriated fund belonging to the Territory, and there is hereby appropriated and set apart out of the general funds belonging to the Territory a sum sufficient to pay such interest on said bonds as may be due before the funds and tax herein provided can be made available, and it shall be the duty of said treasurer to pay said interest promptly and at the time it falls due, out of said funds; all moneys belonging to the general fund of the Territory applied by said treasurer in payment of either principal or interest of said bonds shall be replaced from the special tax herein provided.

§ 7. GOVERNMENT.] The general supervision and government of said Soldiers' Home shall be vested in board of five (5) commissioners who shall be selected by the Governor of the Territory of Dakota, and with the consent of the Council, said commissioners to be appointed between the 1st and 15th day of May, 1889, no two of whom shall be from the same county, and no member of the general assembly shall be eligible to the office; but all shall be ex-Union soldiers. The members of said board shall hold their office for the respective terms of two (2), four (4) and six (6) years from the 1st day of April A. D. 1889, and until their successors shall be appointed and qualified said respective terms of office to be determined by lot, and thereafter

there shall be two members of said board appointed every two years at the session of the general assembly, whose terms of office shall continue for six (6) years from the 1st day of April next ensuing, and until their successors are appointed and qualified. In case of a vacancy in said board by death or otherwise, the appointing power provided for shall immediately fill the vacancy for the unexpired portion of the term. Said board shall meet for the purpose of organization on the first Thursday in June after their appointment at the Hot Springs, Dakota, where the home shall be located. No compensation shall be allowed any member of said board except the secretary, who shall receive not to exceed six hundred (\$600) dollars per annum, save their actual expenses, provided, however, that a building committee shall be appointed from the members of said board consisting of one (1) whose duty it shall be to visit and inspect the buildings at least once in ten days during the period of construction and who may receive the sum of five (5) dollars per day every day actually engaged in such examination.

Three members of the board shall constitute a quorum for the transaction of business, but for the adoption of plans and the letting of contracts for the building and the selection of a commandant for said home, the affirmative vote of a majority of the entire board shall be required.

§ 8. COMMISSIONER'S OATH.] Before entering upon the duties of their office each member of the said board of commissioners shall take and subscribe an oath as follows:

I do solemnly swear that I will support the Constitution of the United States and the Organic Act of the Territory of Dakota, and will faithfully discharge the duties of trustee of the Dakota Soldiers' Home, according to the best of my ability. That I have not received and will not knowingly and intentionally, directly or indirectly receive any money or other consideration from any source whatever, for any vote or influence I may give or withhold, or for any other official act I may perform as such trustee, except as herein provided, and also execute a bond in the penal sum of five thousand (\$5,000) dollars for the use and benefit of the Territory of Dakota, with two or more good and sufficient sureties, to be filed with the Secretary of the Territory, conditional upon the faithful performance of his duties, and the honest and faithful disbursement of and accounting for all monies which may come into his hands under the provisions of this act.

The said board having taken the foregoing oath and executed a bond as aforesaid is hereby empowered and required to cause to be prepared suitable plans and specifications by a competent architect; such plans shall contemplate the erection of a building which shall accommodate not less than two hundred (200), nor more than four hundred (400) inmates and shall be accompanied by specifications and by a detailed estimate of the amount required, and description of all material and labor required for the entire and full completion of

the buildings, and no plan shall be adopted that contemplates the expenditure of more money for its completion than the amount appropriated by the general assembly.

§ 9. ARCHITECT.] That the said board of commissioners shall employ the architect whose plans and specifications are accepted, to act as a superintendent of construction, who shall receive for such plans and specifications and for superintending construction, such pay as the board shall by agreement determine, which pay shall not exceed an amount equal to five per cent. of the estimated cost of said buildings.

§ 10. SEALED BIDS.] Whenever the said plans and specifications shall have been approved and adopted by a majority of the board, the commissioners shall cause to be inserted in at least two of the daily or weekly newspapers published in the Territory of Dakota, and having a general circulation therein, an advertisement for sealed bids for the construction of the buildings herein authorized, and they shall furnish a printed copy of this act, and of the plans and specifications to all persons applying therefor.

§ 11. AWARD.] Not less than thirty (30) days after the publication of said proposals for bids, on a day and hour to be named in said published notice, at the place where such home shall be located, in the presence of the bidders, or as many of them as may be present, the bids shall be opened for the first time, and the contract for building shall be let to the lowest and best bidder, provided that should the board of commissioners, think it for the best interest of the Territory, they may reject any or all bids, and may advertise over again, and provided further, that no bid shall be considered that is not accompanied by a good and sufficient bond with two or more sureties, who shall be resident free holders of the Territory, and said bond shall also be approved by the Clerk of the District Court of the county in which the person lives who offers the bid in a sum not less than ten thousand (\$10,000) dollars as the guarantee of the good faith of the bidder, and that he shall enter into a contract and give bonds as provided in this act, if his bid shall be accepted.

§ 12. BOND.] The contract to be made with the successful bidder shall be accompanied with a good and sufficient bond in the sum not less than thirty thousand (\$30,000) dollars approved by the Clerk of the Court of the county where such person shall reside if he be a resident of this Territory, otherwise by the Clerk of the Court of the county in whatever state he may reside, and also to be approved by the board of commissioners, conditional for the faithful performance of his contract; said bond shall not be only for the benefit of the Territory, but also for the benefit of all persons employed by the contractor to work on said building or buildings, and for all persons furnishing material for the construction of said building.

§ 13. SUPERINTENDENT OF CONSTRUCTION.] The contract shall provide for the employment of a competent architect, who shall be superintendent of the construction; said superintendent to be chosen

and selected by the board of commissioners as provided in section 9 of this act, and it shall be his duty to see that the work is done strictly in accordance with the contract, both as to quality of material and work done; he shall carefully and accurately measure the materials in the wall and estimate the work done at least once a month, and upon such estimates the contractor shall be paid, withholding twenty (20) per cent. of the value of the work done and material furnished and used until the completion of the building; said contract shall also provide for the forfeiture of a stipulated sum per diem for every day that the work shall be delayed after the time provided in the contract for its completion, and for just protection for all persons who shall furnish labor or material, by withholding pay from the contractor or by paying the parties direct to whom any money is due for work performed or material furnished, and to refuse to accept any work which may be done not fully in accordance with the letter and the spirit of the plans and specifications, and all work or material not accepted by the commissioners shall be replaced at the expense of the contractor and be deducted from the contract price, and that no condition shall be inserted contrary to the letter and spirit of this act, and in no event shall the Territory be liable for a greater amount of money than is appropriated for said building and appurtenances.

§ 14. CONTRACT.] The said contract shall be signed by the president of the board of commissioners in behalf of the board, after having been authorized to do so, and be attested by the signature of the secretary; said contract shall be drawn in triplicate, and one of the same shall be deposited with the Treasurer of the Territory, one retained by the board of commissioners, and one by the contractor.

§ 15. PAYMENT.] The moneys herein appropriated shall be paid to the parties to whom they are due directly from the Treasurer of the Territory, and the Auditor is hereby authorized and required to draw the said warrants for money due under this act upon the order of the board of commissioners, accompanied by vouchers, and the board is hereby authorized to advance and pay on contract before the same is fully completed not exceeding eighty (80) per cent on the estimates of material delivered or labor performed, which estimates shall be made upon the material and labor in the wall of said building; all other monies appropriated by this act shall be drawn quarterly on the requisition of the board of commissioners in the usual manner, and then only in such amounts as the wants of the institution shall require.

§ 16. MISDEMEANOR.] No Commissioner or officer of said Soldiers' Home shall be in any way interested in any contract for the erection of said buildings, or furnishing any material for said buildings, and if any such officer be so interested he shall be deemed guilty of a misdemeanor, and on conviction be fined in any sum not exceeding five thousand (\$5,000) dollars.

§ 17. ANNUAL MEETING.] It shall be the duty of the board of commissioners to meet annually, the first Tuesday in June of each

year, and at such annual meeting they shall elect from their own body a President, Treasurer and Secretary, whose compensation shall be determined by the board, and who shall hold their office for one year or until their successors shall be elected and qualified. The Treasurer shall give a bond which shall be approved by the board of commissioners for double the amount of money that would be liable to come into his hands at any one time. The board of commissioners shall have four regular meetings in each year and not to exceed two special meetings, and shall have power to adopt a seal and make rules and regulations not inconsistent with the laws of the Territory, organic act or the constitution of the United States, for the management and government of said Soldiers' Home, including such rules as they shall deem necessary for the preservation of order, enforcing discipline and preserving the health of its inmates.

The board of commissioners shall make full and minute report of the disbursements of the Home and its condition, financial and otherwise, to each regular session of the general assembly.

§ 18. COMMANDANT.] The board of commissioners shall have the power and it shall be their duty to appoint a commandant for said Home, who shall serve during the pleasure of said board, and who shall be one who was honorably discharged from the military or naval service of the United States, who served in the war of the rebellion of 1861 and 1865, whose salary shall not exceed twelve hundred (1,200) dollars per annum and who shall nominate for the approval of the board all necessary subordinate officers, who shall all be persons either honorably discharged from the service of the United States, or widows of honorably discharged soldiers, who may be removed by said commandant for inefficiency or misconduct, but in case of a removal he must make a detailed statement of the cause of such removal to the commissioners, and the board shall have the power to reinstate such persons. The compensation of the subordinate officers shall be fixed by the board.

§ 19. MAJORITY—RECORD.] Every contract and duty to be performed by said commissioners must receive the approval of the majority of the board in regular session duly called in order to make binding and valid. That all proceedings of said board shall be recorded in a book kept for that purpose, and open to the inspection of any body on request.

§ 20. EFFECT WHEN.] This act shall take effect and be in force from and after its passage and approval.

HOUSE OF REPRESENTATIVES,

BISMARCK, D. T., February 27, 1889.

I hereby certify that on the 21st day of February, A. D. 1889, this act was returned to the House of Representatives the House in which it originated without the approval of his Excellency, Governor Louis K. Church, and with his objections to this bill in writing; that said objections were entered at length on the Journal of the House, that the House considered the bill, and the question put by the Speaker, "Shall the bill pass the objections of the Governor to the contrary, notwithstanding?" And the bill did pass, more than two-thirds of the House voting in the affirmative.

Attest: JNO. G. HAMILTON,
Chief Clerk.

H. H. KEITH,
Speaker of the House.

COUNCIL CHAMBER,
BISMARCK, D. T., February 27, 1889. }

I hereby certify that the within act, together with the objections of His Excellency, Governor, Louis K. Church, was received from the House on the 27th day of February, 1889; that the objections of the Governor were read at length and entered on the Journal of the Council; that thereupon the question was put, "Shall this bill pass, the objections of the Governor to the contrary, notwithstanding." The roll was called and the act did pass, more than two-thirds of the members present and voting, voting in the affirmative.

Attest: R. E. WALLACE,
Chief Clerk.

SMITH STIMMEL,
President of the Council.

STOCK INDEMNITY.

CHAPTER 115.

COMPENSATION TO CERTAIN OWNERS IN OLIVER COUNTY.

AN ACT to Compensate the Owners of Certain Cattle Killed by Order of the Governor and Territorial Board of Health, in Oliver County, Dakota.

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

§ 1. DETERMINATION OF CLAIM.] The Governor and Auditor of the Territory, are hereby authorized and empowered to examine, hear and determine a claim of W. J. Etherington, James B. Etherington and J. B. Fellows, for cattle killed by authority of the Governor and the Territorial Board of Health.

§ 2. GOVERNED BY RULES.] In auditing said claim the said officers shall be governed by the provisions of Chapter thirty-two of the General Laws of 1883. If the proofs submitted in support of said claim establish a demand payable under the provisions of said act, the said Auditor is empowered to draw his warrant on the Stock Indemnity Fund for such sum as shall be found to be due as aforesaid, not exceeding the sum of twenty-five hundred and eight and 80.100 dollars (\$2508.80), and the Territorial Treasurer is hereby directed to pay such warrant from the Stock Indemnity Fund.

§ 3. EFFECT WHEN.] This act shall take effect immediately.

Approved, March 8th, 1889.