

# L A W S

PASSED AT THE

EIGHTEENTH SESSION

OF THE

# Legislative Assembly

OF THE

TERRITORY OF DAKOTA,

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID TERRITORY,  
ON TUESDAY, THE EIGHTH DAY OF JANUARY, A. D. 1889,  
AND CONCLUDED MARCH 9, A. D. 1889.

GRAND FORKS, N. D.  
W. R. BIERLY, PUBLIC PRINTER.  
1889.

# THE ORGANIC LAW.

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## BOUNDARIES OF DAKOTA.

All that part of the territory of the United States included within the following limits, namely: Commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses the same; thence up the main channel of the same and along the boundary of the state of Minnesota to Big Stone Lake; thence along the boundary line of the state of Minnesota to the Iowa line; thence along the boundary line of the state of Iowa to the point of intersection between the Big Sioux and Missouri rivers; thence up the Missouri river and along the boundary line of the state of Nebraska to the mouth of the Niobrara or Running Water river; thence following up the same in the middle of the main channel thereof, to the mouth of the Keya Paha or Turtle Hill River; thence up that river to the forty-third parallel of north latitude; thence due west to the twenty-seventh meridian of longitude west from Washington; thence due north on that meridian to the forty-ninth degree of north latitude; thence east along the forty-ninth degree of north latitude to the place of beginning, is organized into a temporary government by the name of the Territory of Dakota.

[*Section 1900 of the Revised Statutes of the United States.*]

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*Be it enacted, etc.,* That the northern boundary of the state of Nebraska shall be, and hereby is, subject to the provisions hereinafter contained, extended so as to include all that portion of the Territory of Dakota lying south of the forty-third parallel of north latitude and east of the Keya Paha river and west of the main channel of the Missouri river, and when the Indian title to the lands thus described shall be extinguished, the jurisdiction over said lands shall be, and hereby is, ceded to the state of Nebraska, and subject to all the conditions and limitations provided in the act of congress admitting Nebraska into the Union, and the northern boundary of the state shall be extended to said forty-third parallel as fully and effectually as if said lands had been included in the boundaries of said state at the time of its admission into the Union; reserving to the United States the original right of soil in said lands, and of disposing of the

same; *Provided*, that this act, so far as jurisdiction is concerned, shall not take effect until the president shall by proclamation declare that the Indian title to said lands has been extinguished, nor shall it take effect until the state of Nebraska shall have assented to the provisions of this act, and if the state of Nebraska shall not, by an act of its legislature, consent to the provisions of this act within two years next after the passage hereof this act shall cease and be of no effect. [*Approved March 28, 1882.*]

THE FOLLOWING SECTIONS OF THE REVISED STATUTES OF THE UNITED STATES, OF 1874, AND EXTRACTS FROM SUBSEQUENT STATUTES AT LARGE, INCLUDE ALL EXISTING UNITED STATES LAWS RELATING TO DAKOTA:

SECTION 1839. Nothing in this title shall be construed to impair the rights of person or property pertaining to the Indians in any Territory, so long as such rights remain unextinguished by treaty between the United States and such Indians, or to include any Territory which, by treaty with any Indian tribe, is not, without the consent of such tribe, embraced within the Territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries and constitute no part of any territory now or hereafter organized, until such tribe signifies its assent to the president to be embraced within a particular territory.

SEC. 1840. Nor shall anything in this title be construed to affect the authority of the United States to make any regulations respecting the Indians of any territory, their lands, property or rights, by treaty, law or otherwise, in the same manner as might be if no temporary government existed or is hereafter established in any such territory.

SEC. 1841. The executive power of each territory shall be vested in a governor, who shall hold his office for four years and until his successor is appointed and qualified, unless sooner removed by the president. He shall reside in the territory for which he is appointed and shall be commander-in-chief of the militia thereof. He may grant pardons and reprieves, and remit fines and forfeitures for offenses against the laws of the territory for which he is appointed, and respites for offenses against the laws of the United States, till the decision of the president can be made known thereon. He shall commission all officers who are appointed under the laws of such territory, and shall take care that the laws thereof be faithfully executed.

SEC. 1842. Every bill which has passed the legislative assembly of any territory shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it originated, and that house shall enter the objections at large on its journal and proceed to reconsider. If, after such reconsideration, two-third of that house agree to pass the bill, it shall be sent, together with the objections, to the other house by which it shall likewise be reconsidered; and if

approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered upon the journal of each house. If any bill is not returned by the governor within three days, Sundays excluded, after it has been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly by adjournment *sine die*, prevent its return, in which case it shall not be a law.

SEC. 1843. There shall be appointed a secretary for each territory who shall reside within the territory for which he is appointed, and shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president. In case of the death, removal, resignation or absence of the governor from the territory, the secretary shall execute all the powers and perform all the duties of governor during such vacancy or absence, or until another governor is appointed and qualified.

SEC. 1844. The secretary shall record and preserve all the laws and proceedings of the legislative assembly, and all the acts and proceedings of the governor in the executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session thereof, to the president, and two copies of the law within like time, to the president of the senate and to the speaker of the house of representatives, for the use of congress. He shall transmit one copy of the executive proceedings and official correspondence semi-annually, on the first day of January and July in each year, to the president. He shall prepare the acts passed by the legislative assembly for publication, and furnish a copy thereof to the public printer of the territory, within ten days after the passage of each act.

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And hereafter it shall be the duty of the secretary of each territory to furnish estimates in detail for the lawful expenses thereof, to be presented to the secretary of the treasury on or before the first day of October of every year. (*Part of Act Approved June 20, 1874.*)

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And it shall be the duty of the secretary of each of the territories of the United States to furnish the surveyor general of the territory for the use of the United States, a copy duly certified of every act of the legislature of the territory, incorporating any city or town, the same to be forwarded by such secretary to the surveyor general within one month from the date of its approval. [*Part of Act approved March 3, 1877.*]

SEC. 1845. From and after the first day of July, eighteen hundred and seventy three, the annual salaries of the governors of the several territories shall be three thousand five hundred dollars, and the salaries of the secretaries shall be two thousand five hundred dollars each.

SEC. 1846. The legislative power in each territory shall be vested

in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The members of both branches of the legislative assembly shall have the qualification of voters as herein prescribed. They shall be chosen for the term of two years, and the sessions of the respective legislative assemblies shall be biennial. Each legislative assembly shall fix by law the day of commencement of its regular session. The members of the council and house of representatives shall reside in the district or county for which they are respectively elected.

SEC. 1847. Previous to the first election for members of the legislative assembly of a territory in which congress may hereafter provide a temporary government, the governor shall cause a census of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as he may designate and appoint, and the persons so appointed shall receive a reasonable compensation for their services. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who superintend such election and the returns thereof, as the governor may direct, and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties and districts is entitled under the act providing such temporary government for the particular territory. The persons having the highest number of legal votes in each of the districts for members of the council shall be declared by the governor to be duly elected to the council, and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of that house; but in case two or more persons voted for have an equal number of votes, and in case a vacancy otherwise occurs in either branch of the legislative assembly, the governor shall order a new election, and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor appoints.

SEC. 1848. After such first election, however, the time, place and manner of holding elections by the people in any newly created territory, as well as of holding all such elections in territories now organized, shall be prescribed by the laws of each territory.

SEC. 1849. The apportionment of representation which the governor is authorized to make by section 1847, in case of a territory hereafter erected by congress, shall be as nearly equal as practicable among the several districts and counties for such first election of the council and house of representatives, giving to each section of the territory representation in the ratio of its population, except Indians not taxed; and thereafter in such new territory, as well as in all territories now organized, the legislative assemblies respectively may readjust and apportion the representation to the two houses thereof, among the several counties and districts, in such manner, from time

to time, as they deem just and proper, but the members of either house, as authorized by law, shall not be increased.

SEC. 1851. The legislative power of every territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and laws of the United States. But no law shall be passed interfering with the primary disposal of the soil: no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents.

SEC. 1925. In addition to the restrictions upon the legislative power of the territories, contained in the preceding chapter, section eighteen hundred and fifty-one, the legislative assemblies of Colorado, Dakota and Wyoming shall not pass any law impairing the right of private property, nor make any discrimination in taxing different kinds of property; but all property subject to taxation shall be taxed in proportion to its value.

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*Be it enacted, etc.* That section eighteen hundred and fifty-two be, and the same hereby is, so amended as to read as follows:

“SEC. 1852. The sessions of the legislative assemblies of the several territories of the United States shall be limited to sixty days’ duration.” (*Approved December 23, 1880.*)

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Hereafter no extraordinary session of the legislature of any territory, wherever the same is now authorized by law, shall be called until the reasons for the same have been presented to the president of the United States, and his approval thereof has been duly given. (*Part of Act Approved June 22, 1874.*)

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That from and after the adjournment of the next session of the several territorial legislatures, the council of each of the territories of the United States, shall not exceed twelve members, and the house of representatives of each, shall not exceed twenty-four members, and the members of each branch of the said several legislatures, shall receive a compensation of four dollars per day each during the sessions provided by law, and shall receive such mileage as the law provides; and the president of the council and the speaker of the house of representatives shall each receive six dollars per day for the same time.

And the several legislatures at their next sessions are directed to divide their respective territories into as many council and representative districts as they desire, which districts shall be as nearly equal as practicable, taking into consideration population (except Indians not taxed;) *Provided*, the number of council districts shall not exceed twenty-four in any one of said territories, and all parts of sections eighteen hundred and forty-seven, eighteen hundred and forty-nine, eighteen hundred and fifty-three, and nineteen hundred

and twenty-two of the revised statutes of the United States in conflict with the provisions herein are repealed.

That the subordinate officers of each branch of said territorial legislatures shall consist of one chief clerk, who shall receive a compensation of six dollars per day; one enrolling and engrossing clerk at five dollars per day; sergeant-at-arms and doorkeeper at five dollars per day; one messenger and watchman at four dollars per day each; and one chaplain at one dollar and fifty cents per day.

Said sums shall be paid only during the sessions of said legislatures, and no greater number of officers or charges per diem shall be paid or allowed by the United States to any territory. [*Part of Act approved June 19, 1878.*]

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*Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:* That the legislature of the territory of Dakota shall hereafter consist of twenty-four members of the council and forty-eight members of the house of representatives, and that there shall be elected at the next general election in said territory two members of the council and four members of the house of representatives, in each of the twelve legislative districts provided for in chapter seven of the territorial statutes of eighteen hundred and eighty-three of said territory. [*Approved June 12, 1884.*]

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And the legislature of Dakota may divide said territory into as many council and representative districts as they desire, which districts shall be as nearly equal as practicable, taking into consideration population (except Indians not taxed); *Provided*, that the number of council districts shall not exceed twenty-four, and the number of representative districts shall not exceed forty-eight. [*Part of Act Approved March 3, 1885.*]

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SEC. 1492. The members of the legislative assemblies of New Mexico, Utah, Washington, Colorado, Dakota, Arizona and Wyoming territories shall each receive three dollars for every twenty miles' travel in going to and returning from the sessions of their respective bodies, estimated according to the nearest usually traveled route.

SEC. 1854. No member of the legislative assembly of any Territory now organized shall hold or be appointed to any office which has been created, or the salary or emoluments of which have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly in any territory hereafter organized; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly or shall hold any office under the government of any territory. The exception of postmasters shall not apply in the territory of Washington.

SEC. 1855. No law of any territorial legislature shall be made or enforced by which the governor or secretary of a territory, or the members or officers of any territorial legislature, are paid any compensation other than that provided by the laws of the United States.

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And section eighteen hundred and sixty-one of the Revised Statutes is hereby repealed and this substituted in lieu thereof: *Provided*, that for the performance of all official duties imposed by the territorial legislatures, and not provided for in the organic act, the secretaries of the territories respectively shall be allowed such fees as may be fixed by the territorial legislatures. And in no case shall the expenditure for public printing in any of the territories exceed the sum of two thousand five hundred dollars for any one year.

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SEC. 1856. Justices of the peace and all general officers of the militia in the several territories shall be elected by the people in such manner as the respective legislatures may provide by law.

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*Be it enacted, etc.*, SEC. 1. That when from any cause there shall be a vacancy in the office of justice of the peace in any of the territories of the United States, it shall be lawful to fill such vacancy by appointment or election, in such manner as has been or may be provided by the governor and legislative assembly of such territory: *Provided*, That such appointee or person elected to fill such vacancy shall hold office only until his successor shall be regularly elected and qualified as provided by law.

SEC. 2. That all laws and parts of laws in conflict with the provisions of this act, be and the same are hereby repealed. (*Approved April 16, 1880.*)

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SEC. 1857. All township, district and county officers except justices of the peace and general officers of the militia, shall be appointed or elected in such manner as may be provided by the governor and legislative assembly of each territory; and all other officers not herein otherwise provided for, the governor shall nominate, and by and with the advice and consent of the legislative council of each territory, shall appoint; but in the first instance where a new territory is hereafter created by congress, the governor alone may appoint all the officers referred to in this and the preceding section, and assign them to their respective townships, districts and counties, and the officers so appointed shall hold their offices until the end of the first session of the legislative assembly.

SEC. 1858. In any of the territories, whenever a vacancy happens from resignation or death during the recess of the legislative council, in any office which under the organic act of any territory is to be filled by appointment of the governor, by and with the advice and consent of the council, the governor shall fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislative council.

SEC. 1859. Every male citizen above the age of twenty-one, including persons who have legally declared their intention to become citizens, in any territory hereafter organized, and who are actual residents of such territory at the time of the organization thereof, shall be entitled to a vote at the first election in such territory and to hold any office therein, subject, nevertheless to the limitations specified in the next section.

SEC. 1860. At all subsequent elections, however, in any territory hereafter organized by congress, as well as at all elections in territories already organized, the qualifications of voters and of holding office shall be such as may be prescribed by the legislative assembly of each territory; subject, nevertheless, to the following restrictions on the power of the legislative assembly, namely:

First. The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and by those above that age who have declared on oath, before a competent court of record, their intention to become such, and have taken an oath to support the constitution and government of the United States.

Second. There shall be no denial of the elective franchise, or of holding office, to a citizen on account of race, color or previous condition of servitude.

Third. No officer, soldier, seaman, mariner or other person in the army or navy, or attached to troops in the service of the United States, shall be allowed to vote in any territory by reason of being in service therein, unless such territory is and has been for the period of six months his permanent domicile.

Fourth. No person belonging to the army or navy shall be elected to or hold any civil office or appointment in any territory.

SEC. 1862. Every territory shall have the right to send a delegate to the house of representatives of the United States, to serve during each congress, who shall be elected by the voters in the territory qualified to elect members of the legislative assembly thereof. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly. Every such delegate shall have a seat in the house of representatives with a right of debating, but not of voting.

SEC. 1863. The first election of a delegate in any territory for which a temporary government is hereafter provided by congress, shall be held at the time and places, and in the manner the governor of such territory may direct, after at least sixty days' notice to be given by proclamation; but at all subsequent elections therein, as well as at all elections for a delegate in organized territories, such time, places and manner of holding the election, shall be prescribed by the law of each territory.

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*Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:* That hereafter the

supreme court of the Territory of Dakota shall consist of a chief justice and five associate justices, any five of whom shall constitute a quorum.

SEC. 2. That it shall be the duty of the president to appoint two additional associate justices of the said supreme court, in a manner now provided by law, who shall hold their office for the term of four years and until their successors are appointed and qualified.

SEC. 3. That the said territory shall be divided into six judicial districts, and a district court shall be held in each district by one of the justices of the supreme court, at such time and place as may be prescribed by law. Each judge, after assignment, shall reside in the district to which he is assigned.

SEC. 4. That until changed by the legislative assembly of said territory, the fifth district of said territory shall consist of the following counties, namely: Brookings, Kingsbury, Beadle, Deuel, Hamlin, Grant, Codington, Clark, Day, Spink, Brown, Hand, Hyde, Hughes, Sully, Edmunds, Faulk, McPherson, Potter, Campbell, Roberts and Walworth, and the Sisseton and Wahpeton Indian Reservation. And the second district and fourth district, shall consist of the remainder of the territory which now constitutes said second district and the fourth district, respectively, as defined by the statutes of said territory.

SEC. 5. That until changed by the legislature of said territory, the sixth district shall consist of the following counties, namely: Bowman, Villard, Billings, Dunn, McKenzie, Allred, Buford, Flannery, Wallace, Mountrail, Williams, Stark, Hettinger, Morton, Mercer, McLean, Stevens, Renville, Wynn, Bottineau, McHenry, Sheridan, Burleigh, Emmons, McIntosh, Logan, Kidder, Wells, DeSmet, Rolette, Towner, Benson, Foster, Stutsman, LaMoure, Dickey, Griggs, Steele and Barnes.

SEC. 6. That temporal, and until otherwise ordered by law, the additional associate justices to be appointed under this act are hereby assigned to said fifth and sixth districts, and the time and place as now fixed by the statutes of said territory for holding court therein shall remain until changed by law.

SEC. 7. That the district court for the said fifth judicial district, shall have no jurisdiction to try, hear or determine any matter or cause wherein the United States is a party, and no United States grand or petit jury shall be summoned in said court, but said fifth district is hereby attached to and made a part of the second judicial district for the purpose of hearing and determining all matters and causes arising within said fifth district in which the United States is a party.

SEC. 8. That the district court of said sixth judicial district shall have and possess jurisdiction to try, hear and determine all matters and causes that the court of any district in said territory now possesses. And for such purposes two terms of said court shall be held annually in the city of Bismarck, in the county of Burleigh, and a

grand and petit jury shall be summoned thereon in the manner now required by law in the United States court in said territory.

SEC. 14. That all offenses committed before the passage of this act shall be prosecuted, tried and determined in the same manner and with the same effect, (except as to number of judges) as if this act had not been passed. [*Approved July 4, 1884.*]

And all suits or proceedings pending in the district courts of Dakota and Washington territories at the time of the passage of said act (*July 4, 1884.*) and which would, if instituted after the passage of said act, be required to be brought in the new districts created and provided for in said act, may be transferred by consent of parties to said new district courts, and there disposed of in like manner and with like effect as if the same had there been instituted; and all writs and recognizances relating to such suits and proceedings so transferred shall be considered as belonging to the courts of the said new districts respectively, in the same manner and with the like effect as if they had issued or had been taken in reference thereto originally. [*Part of act Approved March 3, 1885.*]

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SEC. 1866. The jurisdiction, \* both appellate and original, of the courts provided for in sections 1907 and 1908, shall be limited by law.

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SEC. 1907. The judicial power in New Mexico, Utah, Washington, Colorado, Dakota, Idaho, Montana and Wyoming, shall be vested in a supreme court, district courts, probate courts, and in justices of the peace.

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SEC. 1867. No justices of the peace in any territory shall have jurisdiction in any case in which the title to land, or the boundary thereof in anywise comes in question.

SEC. 1926. Justices of the peace in the territories of New Mexico, Utah, Washington, Dakota, Idaho, Montana and Wyoming, shall not have jurisdiction of any matter in controversy where the debt or sum claimed exceeds one hundred dollars.

SEC. 1868. The supreme court and district courts respectively, of every territory, shall possess chancery as well as common law jurisdiction.

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*Be it enacted, etc.,* That it shall not be necessary in any of the courts of the several territories of the United States to exercise separately the common law and chancery jurisdiction vested in said courts; and that the several codes and rules of practice adopted in said territories respectively, in so far as they authorize a mingling of said jurisdictions of a uniform course of proceeding in all cases, whether legal or equitable, be confirmed; and that all proceedings heretofore had or taken in said courts in conformity with said respective codes and rules of practice, so far as relates to the form and

mode of proceeding be, and the same are hereby validated and confirmed; *Provided*, that no party has been or shall be deprived of the right of trial by jury in cases cognizable at common law.

SEC. 2. That the appellate jurisdiction of the supreme court of the United States over the judgments and decrees of said territorial courts in cases of trial by jury, shall be exercised by writ of error, and in all other cases by appeal according to such rules and regulations as to form and modes of proceedings as the said supreme court have prescribed or may hereafter prescribe; *Provided*, That an appeal instead of the evidence at large, a statement of the facts of the case in the nature of a special verdict, and also the rulings of the court on the admission or rejection of evidence when excepted to, shall be made and certified by the court below, and transmitted to the supreme court, together with the transcript of the proceedings and judgment or decree, but no appellate proceedings in said supreme court heretofore taken upon any judgment or decree shall be invalidated by reason of being instituted by writ of error or by appeal; and *provided further*, that the appellate court may make any order in any case heretofore appealed, which may be necessary to save the rights of the parties, and that this act shall not apply to cases now pending in the supreme court of the United States, where the record has already been filed. [*Approved April 7, 1874.*]

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SEC. 1869. Writs of error, bills of exception, and appeals shall be allowed, in all cases, from the final decisions of the district courts to the supreme court, of all the territories respectively, under such regulation as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in that court.

SEC. 1909. Writs of error and appeal from the final decisions of the supreme court of either of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana and Wyoming, shall be allowed to the supreme court of the United States, in the same manner, and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath of either party, or of other competent witnesses, exceeds one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the supreme courts created by this title, or of any judge thereof, or of the district courts created by this title, or of any judge thereof, upon writs of *habeas corpus* involving the question of personal freedom.

SEC. 1910. Each of the district courts in the territories mentioned in the preceding section shall have and exercise the same jurisdiction in all cases arising under the constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the first six days of every term of the respective district courts, or so much thereof as is necessary, shall be appropriated to the trial of causes arising under such constitution and laws,

but writs of error and appeals in all such cases may be had to the supreme court of each territory, as in other cases.

SEC. 1870. The supreme court of each territory shall appoint its own clerk, who shall hold his office at the pleasure of the court for which he is appointed.

SEC. 1871. Each judge of the supreme court of the respective territories shall designate and appoint one person as clerk of the district over which he presides, where one is not already appointed, and shall designate and retain but one such clerk where more than one is already appointed, and only such district clerk shall be entitled to a compensation from the United States.

SEC. 1818. The legislative assemblies of New Mexico, Washington, Colorado, Dakota, Arizona and Wyoming territories may assign the judges appointed for such territories respectively, to the several judicial districts thereof, in such manner as each legislative assembly deems proper and convenient.

SEC. 1919. The legislative assemblies of Colorado, Dakota and Wyoming territories may fix or alter the times and places of holding the district courts for such territories respectively, in such manner as such legislative assembly deems proper and convenient.

SEC. 1874. The judges of the supreme court of each territory are authorized to hold court within their respective districts, in the counties wherein, by the laws of the territory, courts have been or may be established, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party; but the expense of holding such courts shall be paid by the territory or by the counties in which the courts are held, and the United States shall in no case be chargeable therewith.

SEC. 1875. There shall be appointed in each territory a person learned in the law to act as attorney for the United States. He shall continue in office for four years and until his successor is appointed and qualified, unless sooner removed by the president.

SEC. 1876. There shall be appointed a marshal for each territory. He shall execute all process issuing from the territorial courts when exercising their jurisdiction as circuit and district courts of the United States. He shall have the power and perform the duties and be subject to the regulations and penalties imposed by law on the marshals for the several judicial districts of the United States. He shall hold his office for four years and until his successor is appointed and qualified, unless sooner removed by the president.

SEC. 1877. The governor, secretary, chief justice and associate justices, attorney and marshal of every territory shall be nominated, and by and with the advice and consent of the senate, appointed by the president.

SEC. 1878. The governor and secretary for each territory shall, before they act as such, respectively take an oath before the district judge or some justice of the peace in the limits of the territory for which they are appointed, duly authorized to administer oaths by the

laws in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States and faithfully to discharge the duties of their respective offices; and such oaths shall be certified by the person before whom the same are taken, and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices and all other civil officers appointed for any territory, before they act as such, shall take a like oath before the governor or secretary or some judge or justice of the peace of the territory, who may be duly commissioned and qualified, and such oath shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as above directed; but after the first qualification of the officers herein specified in the case of a new territory, as well as in all organized territories the like oath shall be taken, certified and recorded in such manner and form as may be prescribed by the law of each territory.

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Hereafter payment of salaries<sup>\* \*</sup> of all officers of the territories of the United States, appointed by the president, shall commence only when the person appointed to any such office shall take the proper oath and shall enter upon the duties of such office in such territory. And said oath shall hereafter be administered in the territory in which such office is held. [*Part of Act approved May 1, 1876.*]

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SEC. 1879. The annual salary of the chief justice and associate justices of all the territories now organized shall be three thousand dollars each.

SEC. 1880. The salary of the attorney of the United States for each territory shall be at the rate of two hundred and fifty dollars annually.

SEC. 1881. The salary of the marshal of the United States for each territory shall be at the rate of two hundred dollars a year.

SEC. 1882.. The salaries provided for in this title, to be paid to the governor, secretary, chief justice and associate justices, district attorney and marshal of the several territories, shall be paid quarterly at the treasury of the United States.

SEC. 1935. There shall be appropriated annually one thousand dollars, to be expended by the respective governors, to defray the contingent expenses of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana and Wyoming, including the salary of the clerk in the executive department of those territories.

SEC. 1883. The fees and costs to be allowed to the United States attorneys and marshals, to the clerks of the supreme and district courts, and to jurors, witnesses, commissioners and printers in the territories of the United States shall be the same for similar services by such persons as prescribed in chapter 16, title "The Judiciary," and no other compensation shall be taxed or allowed.

SEC. 1884. When any officer of a territory is absent therefrom

and from the duties of his office, no salary shall be paid him during the year in which such absence occurs, unless good cause therefor be shown to the president, who shall officially certify his opinion of such cause to the proper accounting officer of the treasury, to be filed in his office.

SEC. 1886. All accounts for disbursements in the territories of the United States, of money appropriated by congress for the support of government therein, shall be settled and adjusted at the treasury department; and no act, resolution or order of the legislature of any territory, directing the expenditure of the sum, shall be deemed a sufficient authority for such disbursement, but sufficient vouchers and proof for the same shall be required by the accounting officers of the treasury. No payment shall be made or allowed unless the secretary of the treasury has estimated therefor and the object been approved by congress. No session of the legislature of a territory shall be held until the appropriation for its expenses has been made.

SEC. 1939. There shall be appropriated respectively for the territories of New Mexico, Utah, Colorado, Dakota, Arizona and Wyoming annually a sufficient sum, to be expended by the secretary of each territory herein named, upon an estimate to be made by the secretary of the treasury, to defray the expenses of the legislative assembly and other incidental expenses; and the secretary of each territory above specified shall annually account to the secretary of the treasury for the manner in which such sum has been expended.

SEC. 1888. No legislative assembly of a territory shall in any instance or under any pretext, exceed the amount appropriated by congress for its annual expenses.

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SEC. 1889. The legislative assemblies of the several territories shall not grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, banking, manufacturing or other industrial pursuits, or the construction and operation of railroads, wagon roads, canals or irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable or scientific association.

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*Be it enacted, etc.,* That the words "the legislative assemblies of the several territories shall not grant private charters or special privileges," in section eighteen hundred and eighty-nine, of the revised statutes of the United States shall not be construed as prohibiting the legislative assemblies of the several territories of the United States from creating towns, cities, or other municipal corporations, and providing for the government of the same and conferring upon them the corporate powers and privileges, necessary to their local administration, by either general or special acts; and that all general and special acts of such legislative assemblies heretofore

passed creating and providing for the government of towns, cities or other municipal corporations, and conferring such rights, powers and privileges upon the same as were necessary to their local administration, be, and the same are hereby ratified and confirmed and declared to be valid, any law to the contrary notwithstanding, subject, however to amendment or repeal hereafter by such territorial assemblies. But nothing herein shall have the effect to create any private right, except that of holding and executing municipal offices, or to divest any such right, or to make valid or invalid any contract or obligation heretofore made by or on behalf of any such town, city or other municipal corporation, or to authorize any such corporation to incur hereafter any debt or obligation other than such as shall be necessary to the administration of its internal affairs. [*Approved June 8, 1878.*]

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SEC. 1890. No corporation or association for religious or charitable purposes shall acquire or hold real estate in any territory, during the existence of the territorial government, of a greater value than fifty thousand dollars; and all real estate acquired or held by such corporation or association contrary hereto, shall be forfeited and escheat to the United States; but existing vested rights in real estate shall not be impaired by the provisions of this section.

SEC. 1891. The constitution and all laws of the United States which are not locally inapplicable, shall have the same force and effect within all the organized territories, and in any territory here after organized, as elsewhere within the United States.

SEC. 1892. Any penitentiary which has been, or may hereafter be, erected by the United States in an organized territory, shall, when the same is ready for the reception of convicts, be placed under the care and control of the marshal of the United States, for the territory or district in which such penitentiary is situated, except as otherwise provided in the case of the penitentiaries in Montana, Idaho, Wyoming and Colorado.

SEC. 1893. The attorney general of the United States shall prescribe all needful rules and regulations for the government of such penitentiary, and the marshal having charge thereof shall cause them to be duly and faithfully executed and obeyed, and the reasonable compensation of the marshal and of his deputies for their services under such regulations shall be fixed by the attorney general.

SEC. 1894. The compensation as well as the expense incident to the subsistence and employment of offenders against the laws of the United States, who have been, or may hereafter be, sentenced to imprisonment in such penitentiary, shall be chargeable on, and payable out of, the fund for defraying the expense of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States; but nothing herein shall be construed to increase the maximum compensation now allowed by law to these officers.

SEC. 1895. Any person convicted by a court of competent jurisdiction in a territory for a violation of the laws thereof, and sentenced to imprisonment may, at the cost of such territory, on such terms and conditions as may be prescribed by such rules and regulations, be received, subsisted and employed in such penitentiary during the term of his imprisonment, in the same manner as if he had been convicted of an offense against the laws of the United States.

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That the legislative assemblies of the several territories of the United States may make such provision for the care and custody of such persons as may be convicted of crime under the laws of such territory as they shall deem proper, and for that purpose may authorize and contract for the care and custody of such convicts in any other territory or state, and provide that such person or persons may be sentenced to confinement accordingly, in such other territory or state, and all existing legislative enactments of any of the territories for that purpose are hereby legalized; *Provided*, that the expense of keeping such prisoners shall be borne by the respective territories, and no part thereof shall be borne by the United States. [*Part of Act approved June 16, 1880.*]

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SEC. 1944. The seat of government of the territories of New Mexico, Utah, Washington, Colorado, Dakota, Arizona and Wyoming may be changed by the governors and legislative assemblies thereof, respectively.

SEC. 1946. Sections numbered 16 and 36 in each township of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana and Wyoming, shall be reserved for the purpose of being applied to schools in the several territories herein named, and in the states and territories hereafter to be erected out of the same.

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That if any timber cut on the public lands shall be exported from the territories of the United States, it shall be liable to seizure by United States authority, wherever found. [*Part of act approved April 30, 1878.*]

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*Resolved, etc.* That the secretary of war is hereby authorized to cause to be issued to the territories, and the states bordering thereon, such arms as he may deem necessary for their protection, not to exceed one thousand to said states each; *Provided*, that such issues shall only be from arms owned by the government, which have been superseded and no longer issued to the army; *Provided, however*, that said arms shall be issued only in the following manner and upon the following conditions, namely: Upon the requisition of the governors of said states or territories, showing the absolute necessity of arms for the protection of the citizens and their property against Indian raids in said states or territories; also that militia companies are regularly organized and under control of the governors of said

states or territories, to whom said arms are to be issued, and that said governor or governors shall give a good and sufficient bond for the return of said arms or the payment of the same at such times as the secretary of war may designate. [*Resolution approved July 3, 1876.*]

*Resolved, etc.* That the joint resolution approved July third, eighteen hundred and seventy-six, authorizing the secretary of war to issue arms to the territories and the states bordering thereon, be and the same is hereby amended by inserting after the words "each of said territories," the words "and ammunition for the same, not to exceed fifty ball cartridges for each arm." [*Approved March 3, 1877.*]

*Be it enacted, etc.* That a joint resolution, approved July third, eighteen hundred and seventy-six, entitled "Joint resolution authorizing the secretary of war to issue arms," be amended as follows: By inserting in the fifth line, after the word "states" and before the word "each," the words "and territories," and by striking out after the word "each," in said fifth line, and before the word "provided," in sixth line, the words, "and not more than five hundred to each of said territories;" *Provided*, that the quota to the states now authorized by law shall not hereby be diminished. [*Approved May 16, 1878.*]

*Be it resolved, etc.* That the secretary of war is hereby authorized to cause to be issued to each of the territories of the United States (in addition to arms and ammunition, the issue of which has been heretofore provided for), such arms, not to exceed one thousand in number, as he may deem necessary, and ammunition for the same, not to exceed fifty ball cartridges for each arm; *Provided*, that such issue shall be only from arms owned by the government of the United States which have been superseded and no longer issued to the army; *And provided, further*, That said arms shall be issued only in the following manner and upon the following conditions, namely: Upon the requisition of the governors of said territories, showing the absolute necessity for arms for the protection of citizens and their property against hostile Indians within, or of Indian raids into such territories; *And provided, further*, that the said governor or governors of said territories to whom the said arms may be issued, shall give good and sufficient bond or bonds for the return of said arms, or payment therefor at such time as the secretary of war may designate as now provided for by law. [*Approved June 7, 1878.*]

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*Be it enacted, etc.* That all inclosures of any public lands in any state or territory of the United States, heretofore or to be hereafter made, erected or constructed by any person, party, association or corporation, to any of which land included within the inclosure the person, party, association or corporation making or controlling the inclosure had no claim or color of title made or acquired in good faith, or an asserted right thereto by or under claim, made in good faith with a view to entry thereof at the proper land office under the

general laws of the United States, at the time any such inclosure was or shall be made, are hereby declared to be unlawful, and the maintenance, erection, construction or control of any such inclosure is hereby forbidden and prohibited; and the assertion of a right to the exclusive use and occupancy of any part of the public lands in the United States, in any state or any of the territories of the United States, without claim, color of title or asserted right as above specified as to inclosure, is likewise declared unlawful and hereby prohibited.

SEC. 2. That it shall be the duty of the district attorney of the United States for the proper district, on affidavit filed with him by any citizen of the United States that section one of this act is being violated, showing a description of the land enclosed with reasonable certainty, not necessarily by meets and bounds, nor by governmental subdivisions of surveyed lands, but only so that the enclosure may be identified, and the persons guilty of the violation, as nearly as may be, and by description if the name cannot on reasonable inquiry be ascertained, to institute a civil suit in the proper United States district or circuit court, or territorial district court, in the name of the United States, and against the parties named or described who shall be in charge of or controlling the inclosure complained of, as defendants; and jurisdiction is also hereby conferred on any United States district or circuit court or territorial district court having jurisdiction over the locality where the land enclosed, or any part thereof, shall be situated, to hear and determine proceedings in equity by writ of injunction, to restrain violations of the provisions of this act; and it shall be sufficient to give the court jurisdiction if service of original process be had in any civil proceeding on any agent or employee having charge or control of the inclosure; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day. In any case if the inclosure shall be found to be unlawful, the court shall make the proper order, judgment or decree for the destruction of the inclosure in a summary way, unless the inclosure shall be removed by the defendant within five days after the order of the court.

SEC. 3. That no person, by force, threats, intimidation or by any fencing or inclosing, or any other unlawful means, shall prevent or obstruct, or shall combine and confederate with others to prevent or obstruct any person from peaceably entering upon or establishing a settlement or residence on any tract of public land subject to settlement or entry under the public land laws of the United States, or shall prevent or obstruct free passage or transit over or through the public lands; *Provided*, this section shall not be held to affect the right or title of persons who have gone upon, improved or occupied said lands under the land laws of the United States, claiming title thereto in good faith.

SEC. 4. That any person violating any of the provisions hereof,

whether as owner, part owner, agent or who shall aid, abet, counsel, advise or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined in a sum not exceeding one thousand dollars and be imprisoned not exceeding one year for each offense.

SEC. 5. That the president is hereby authorized to take such measures as shall be necessary to remove and destroy any unlawful inclosure of any of said lands, and to employ civil or military force, as may be necessary for that purpose.

SEC. 6. That where the alleged unlawful inclosure includes less than one hundred and sixty acres of land, no suit shall be brought under the provisions of this act without authority from the secretary of the interior.

SEC. 7. That nothing herein shall affect any pending suits to work their discontinuance, but as to them hereafter they shall be prosecuted and determined under the provisions of this act. [Approved Feb. 25, 1885.] \* \*

*Be it enacted, etc.* That no appeal or writ of error shall hereafter be allowed from any judgment or decree in any suit at law or in equity in the supreme court of the District of Columbia, or in the supreme court of any of the territories of the United States, unless the matter in dispute, exclusive of costs, shall exceed the sum of five thousand dollars.

SEC. 2. That the preceding section shall not apply to any case wherein is involved the validity of any patent or copyright, or in which is drawn in question the validity of a treaty or statute of, or an authority exercised under the United States; but in all such cases an appeal or writ of error may be brought without regard to the sum or value in dispute. [Approved March 3, 1885.] \* \*

*Be it enacted, etc.,* That all general laws heretofore enacted by the legislative assembly of the territory of Dakota, providing for the incorporation of insurance companies are hereby legalized and made valid, and are declared to have the same force and effect as if the said legislative assembly had had full power and authority to enact the same; and all insurance companies incorporated under said laws and in accordance therewith are hereby declared to have been legally incorporated. [Approved June 30, 1886.] \* \*

*Be it enacted, etc.,* That no lands granted to any railroad corporation by any act of congress shall be exempt from taxation by states, territories and municipal corporations on account of the lien of the United States upon the same for the costs of surveying, selecting and conveying the same, or because no patent has been issued therefor; but this provision shall not apply to lands unsurveyed; *Provided*, that any such land sold for taxes shall be taken by the purchaser subject to the lien for costs of surveying, selecting and conveying, to be paid in such manner by the purchaser as the secretary of the interior may by rule provide, and to all liens of the United States,

all mortgages of the United States, and all rights of the United States, in respect of such lands; *Provided, further*, that this act shall apply only to lands situated opposite to and co-terminous with completed portions of said roads, and in organized counties; *Provided, further*, that at any sale of lands under the provisions of this act, the United States may become a preferred purchaser, and in such case the lands sold shall be restored to the public domain and disposed of as provided by the laws relating thereto.

SEC. 2. That if any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such company or for its use and benefit by act of congress shall for thirty days neglect or refuse to pay any such costs after demand for payment thereof by the secretary of the interior, he shall notify the attorney general, who shall at once commence proceedings to collect the same. But when any sum shall be collected of such railroad company as costs of surveying, selecting and conveying any tract of land which shall have been purchased under the provisions of section one hereof, the secretary of the interior shall out of such collections reimburse said purchaser, his heirs or assigns, the amount of money paid by him as the costs of such surveying, selecting and conveying.

SEC. 3. That this act shall not affect the right of the government to declare or enforce a forfeiture of any lands so granted; but all the rights of the United States to said lands or to any interest therein shall be and remain as if this act had not passed, except as to the lien mentioned in the first section hereof.

SEC. 4. That section twenty-one, of chapter two hundred and sixteen, approved July second, eighteen hundred and sixty-four is, hereby so amended as that the costs of surveying, selecting and conveying therein required to be paid shall become due and payable at and on the demand therefor made by the secretary of the interior, as provided in section two of this act, and nothing in this act shall be construed or taken in anywise to affect or impair the right of congress at any time hereafter further to alter, amend, or repeal the said act, as in the opinion of congress, justice or the public welfare may require, or to impair or waive any right or remedy in the premises now existing in favor of the United States. This act shall be subject to alteration, amendment or repeal. [*Approved July 10, 1886.*]

*Be it enacted, etc.,* That the <sup>\*</sup><sup>\*</sup> legislatures of the territories of the United States now or hereafter to be organized shall not pass local or special laws in any of the following enumerated cases, that is to say:

Granting divorces.

Changing the names of persons or places.

Laying out, opening, altering and working roads or highways.

Vacating roads, town plats, streets, alleys and public grounds.

Locating or changing county seats.

Regulating county and township affairs.

- Regulating the practice in courts of justice.
  - Regulating the jurisdiction and duties of justices of the peace, police magistrates and constables.
  - Providing for changes of venue in civil and criminal cases.
  - Incorporating cities, towns or villages, or changing or amending the charter of any town, city or village.
  - For the punishment of crimes or misdemeanors.
  - For the assessment and collection of taxes for territorial, county, township or road purposes.
  - Summoning and impanneling grand or petit jurors.
  - Providing for the management of common schools.
  - Regulating the rate of interest on money.
  - The opening and conducting of any election or designating the place of voting.
  - The sale or mortgage of real estate belonging to minors or others under disability.
  - The protection of game or fish.
  - Chartering or licensing ferries or toll bridges.
  - Remitting fines, penalties or forfeitures.
  - Creating, increasing or decreasing fees, percentage or allowances of public officers during the term for which said officers are elected or appointed.
  - Changing the law of descent.
  - Granting to any corporation, association or individual the right to lay down railroad tracks, or amending existing charters for such purpose.
  - Granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever.
- In all other cases where a general law can be made applicable, no special law shall be enacted in any of the territories of the United States by the territorial legislature thereof.

SEC. 2. That no territory of the United States now or hereafter to be organized, or any political or municipal corporation or subdivision of any such territory shall hereafter make any subscription to the capital stock of any incorporated company, or company or association having corporate powers, or in any manner loan its credit to or use it for the benefit of such company or association, or borrow any money for the use of any such company or association.

SEC. 3. That no law of any territorial legislature shall authorize any debt to be contracted by or on behalf of such territory except in the following cases: To meet a casual deficit in the revenues, to pay the interest upon the territorial debt, to suppress insurrections, or to provide for the public defense, except that in addition to any indebtedness created for such purposes, the legislature may authorize a loan for the erection of penal, charitable or educational institutions for such territory, if the total indebtedness of the territory is not thereby made to exceed one percentum upon the assessed value of the taxable property in such territory as shown by the last general

assessment for taxation. And nothing in this act shall be construed to prohibit the refunding of any existing indebtedness of such territory or of any political or municipal corporation, county or other sub-division therein.

SEC. 4. That no political or municipal corporation, county or other subdivision in any of the territories of the United States shall ever become indebted in any manner or for any purpose to any amount in the aggregate, including existing indebtedness, exceeding four per centum on the value of the taxable property within such corporation, county or sub-division, to be ascertained by the last assessment for territorial and county taxes previous to the incurring of such indebtedness; and all bonds or obligations in excess of such amount given by such corporation shall be void. That nothing in this act contained shall be so construed as to affect the validity of any act of any territorial legislature heretofore enacted, or of any obligations existing or contracted thereunder, nor to preclude the issuing of bonds already contracted for in pursuance of express provisions of law; nor to prevent any territorial legislature from legalizing the acts of any county, municipal corporation or subdivision of any territory as to any bonds heretofore issued or contracted to be issued.

SEC. 5. That section eighteen hundred and eighty-nine, title twenty-three of the revised statutes of the United States be amended to read as follows:

"The legislative assemblies of the several territories shall not grant private charters or special privileges, but they may by general incorporation acts permit persons to associate themselves together as bodies corporate for mining, manufacturing and other industrial pursuits, and for conducting the business of insurance, banks of discount and deposit (but not of issue) loan, trust and guarantee associations, and for the construction or operation of railroads, wagon roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable or scientific association.

SEC. 6. That nothing in this act contained shall be construed to abridge the power of congress to annul any law passed by a territorial legislature, or to modify any existing law of congress requiring in any case that the laws of any territory shall be submitted to congress.

SEC. 7. That all acts and parts of acts hereafter passed by any territorial legislature in conflict with the provisions of this act shall be null and void. [*Approved July 30, 1886.*

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*Be it enacted, etc.,* That the nature of alcoholic drinks and narcotics, and special instruction as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught in the common or public schools, and in the military or naval schools,

and shall be studied and taught as thoroughly and in the same manner as other like required branches are in said schools, by the use of text-books in the hands of pupils where other branches are thus studied in said schools, and by all pupils in all said schools throughout the territories in the military and naval academies of the United States and in the District of Columbia and in all Indian and colored schools in the territories of the United States.

SEC. 2. That it shall be the duty of the proper officers in control of any school described in the foregoing section to enforce the provisions of this act; and any such officer, school director, committee, superintendent, or teacher who shall refuse or neglect to comply with the requirements of this act or shall neglect or fail to make proper provisions for the instruction required and in the manner specified by the first section of this act, for all pupils in each and every school under his jurisdiction, shall be removed from office and the vacancy filled as in other cases.

SEC. 3. That no certificate shall be granted to any person to teach in the public schools of the District of Columbia or territories, after the first day of January, anno Domini eighteen hundred and eighty-eight, who has not passed a satisfactory examination in physiology and hygiene, with special reference to the nature and effects of alcoholic drinks and other narcotics upon the human system. [*Approved May 20, 1886.*]

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*Be it enacted, etc.,* That the secretary of war be, and he is hereby directed to cause the Territory of Dakota to be credited on its ordnance account with the sum of twenty-seven thousand six hundred and fifty dollars, upon the delivery to the United States, at such place as the secretary of war may direct, of all such arms and other ordnance stores remaining in the custody of said territory, of the issues thereof under said act. [*Approved February 28, 1887.*]

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*Be it enacted, etc.,* That it shall be unlawful for any person or persons, not citizens of the United States, or who have not lawfully declared their intention to become such citizens, or for any corporation not created by or under the laws of the United States, or of some state or territory of the United States, to hereafter acquire, hold, or own real estate so hereafter acquired, or any interest therein, in any of the territories of the United States, or in the District of Columbia, except such as may be acquired by inheritance or in good faith in the ordinary course of justice in the collection of debts heretofore created; *Provided*, that the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty, shall continue to exist so long as such treaties are in force, and no longer.

SEC. 2. That no corporation or association more than twenty per

centum of the stock of which is or may be owned by any person or persons, corporation or corporations, association or associations not citizens of the United States, shall hereafter acquire, or hold, or own any real estate hereafter acquired in any of the territories of the United States or of the District of Columbia.

SEC. 3. That no corporation other than those organized for the construction or operation of railways, canals or turnpikes shall acquire, hold or own more than five thousand acres of land in any of the territories of the United States; and no railroad, canal, or turnpike corporation shall hereafter acquire, hold or own lands in any territory, other than as may be necessary for the proper operation of its railroad, canal or turnpike, except such lands as may have been granted to it by act of congress. But the prohibition of this section shall not affect the title to any lands now lawfully held by any such corporation.

SEC. 4. That all property acquired, held or owned in violation of the provisions of this act shall be forfeited to the United States, and it shall be the duty of the Attorney General to enforce every such forfeiture by bill in equity or other proper process. And in any suit or proceeding that may be commenced to enforce the provisions of this act, it shall be the duty of the court to determine the very right of the matter without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the United States or of the parties concerned in any such proceeding arising out of the matters in this act mentioned. [*Approved March 3, 1887.*]

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*Be it enacted, etc.* That whoever commits adultery shall be punished by imprisonment in the penitentiary not exceeding three years; and when the act is committed between a married woman and a man who is unmarried, both parties to such act shall be deemed guilty of adultery; and when such act is committed between a married man and a woman who is unmarried, the man shall be deemed guilty of adultery.

SEC. 4. That if any person related to another person within and not including the fourth degree of consanguinity computed according to the rules of the civil law, shall marry or cohabit with, or have sexual intercourse with such other so related person knowing her or him to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and on conviction thereof, shall be punished by imprisonment in the penitentiary not less than three years and not more than fifteen years.

SEC. 5. That if an unmarried man or woman commit fornication, each of them shall be punished by imprisonment not exceeding six months, or by a fine not exceeding one hundred dollars.

SEC. 9. That every ceremony of marriage, or in the nature of a marriage ceremony, of any kind, in any of the territories of the United States, whether either or both or more of the parties to such

ceremony be lawfully competent to be the subjects of such marriage or ceremony or not, shall be certified by a certificate stating the fact and nature of such ceremony, the full names of each of the parties concerned, and the full name of every officer, priest or person, by whatever style or designation called or known, in any way taking part in the performance of such ceremony, which certificate shall be drawn up and signed by the parties to such ceremony and by every officer, priest and person taking part in the performance of such ceremony, and shall be by the officer, priest or other person solemnizing such marriage or ceremony filed in the office of the probate court, or, if there be none, in the office of court having probate powers in the county or district in which such ceremony shall take place, for record, and shall be immediately recorded, and be at all times subject to inspection as other public records. Such certificate, or the record thereof, or a duly certified copy of such record, shall be prima facie evidence of the facts required by this act to be stated therein, in any proceeding, civil or criminal, in which the matter shall be drawn in question. Any person who shall wilfully violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall on conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment not longer than two years, or by both said punishments, in the discretion of the court.

SEC. 10. That nothing in this act shall be held to prevent the proof of marriages whether lawful or unlawful by any evidence now legally admissible for that purpose. [*Part of act becoming a law March 3, 1887.*]

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*Be it enacted, etc.* SEC. 26 That all religious societies, sects, and congregations shall have the right to have and to hold through trustees appointed by any court exercising probate powers in a territory, only on the nomination of the authorities of such society, sect or congregation, so much real property for the erection or use of houses of worship, and for such parsonages and burial grounds as shall be necessary for the convenience and use of the several congregations of such religious society, sect or congregation. [*Part of act becoming a law March 3, 1887.*]

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*Be it enacted etc.* That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an act of congress or executive order setting apart the same for their use, the president of the United States be, and he hereby is authorized, whenever in his opinion any reservation or any part thereof, of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation or any part thereof, to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severalty to any Indian located thereon in quantities as follows:

To each head of a family, one-quarter of a section.

To each single person over eighteen years of age, one-eighth of a section.

To each orphan child under eighteen years of age, one-eighth of a section, and

To each other single person under eighteen years now living, or who may be born prior to the date of the order of the president directing an allotment of the lands embraced in any reservation, one-sixteenth of a section; *Provided*, that in case there is not sufficient land in any one of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act; *And provided further*, that where the treaty or act of congress setting apart such reservation provides for the allotment of lands in severalty in quantities in excess of those herein provided, the president, in making allotments upon such reservation, shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act; *And provided further*, that when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands in quantities as above provided, shall be made to each individual.

SEC. 2. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act; *Provided*, that if any one entitled to an allotment shall fail to make a selection within four years after the president shall direct that allotments be made on a particular reservation, the secretary of the interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which selection shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

SEC. 3. That the allotments provided for in this act shall be made by special agents appointed by the president for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the secretary of the interior may from time to time prescribe, and shall be certified by such agents to the commissioner of Indian affairs in duplicate, one copy to be retained in the Indian office and the other to be transmitted to the secretary of the interior for his action and to be deposited in the general land office.

SEC. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of congress or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled upon application to the local land office of the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands, the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as herein provided. And the fees to which the officers of such local land office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them, from any money in the treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the commissioner of the general land office, and a certification of such account to the secretary of the treasury by the secretary of the interior.

SEC. 5. That upon the approval of the allotments provided for in this act by the secretary of the interior, he shall cause patents to issue therefor in the name of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the state or territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever; *Provided*, that the president of the United States may in any case in his discretion extend the period. And if any conveyance shall be made of the lands set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void; *Provided*, that the law of descent and partition in force in the state or territory where such lands are situated shall apply thereto after patents therefor have been executed and delivered, except as herein otherwise provided, and the laws of the state of Kansas regulating the descent and partition of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act; *And provided, further*, that at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner if in the opinion of the president it shall be for the best interests of said tribe, it shall be lawful for the secretary of the interior to negotiate with such Indian tribe for the purchase and release by said tribe, in con-

formity with the treaty or statute under which such reservation is held, of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by congress and the form and manner of executing such release shall also be prescribed by congress; *Provided, however,* that all lands adapted to agriculture, with or without irrigation, so sold or released to the United States by any Indian tribe shall be held by the United States for the sole purpose of securing homes to actual settlers, and shall be disposed of by the United States to actual and bona fide settlers only in tracts not exceeding one hundred and sixty acres to any one person, on such terms as congress shall prescribe, subject to grants which congress may make in aid of education; *And provided further,* that no patents shall issue therefor, except to the person so taking the same as and for a homestead, or his heirs, and after the expiration of five years' occupancy thereof as such homestead; and any conveyance of said lands so taken as a homestead, or any contract touching the same, or lien thereon, created prior to the date of such patent shall be null and void. And the sums agreed to be paid by the United States as purchase money for any portion of any such reservation shall be held in the treasury of the United States for the sole use of the tribe or tribes of Indians to whom such reservations belong; and the same, with interest thereon at three per centum per annum, shall be at all times subject to appropriation by congress for the education and civilization of such tribe or tribes of Indians or the members thereof. The patents aforesaid shall be recorded in the general land office, and afterward delivered, free of charge to the allottee entitled thereto. And if any religious society or other organization is now occupying any of the public lands to which this act is applicable, for religious or educational work among the Indians, the secretary of the interior is hereby authorized to confirm such occupation to such society or organization, in quantity not exceeding one hundred and sixty acres in any one tract, so long as the same shall be so occupied, on such terms as he shall deem just; but nothing herein contained shall change or alter any claim of such society for religious or educational purposes heretofore granted by law. And hereafter in the employment of Indian police, or any other employes in the public service among any of the Indian tribes or bands affected by this act, and where Indians can perform the duties required, those Indians who have availed themselves of the provisions of this act and become citizens of the United States shall be preferred.

SEC. 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the state or territory in which they may reside;

and no territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United states, and is entitled to all the rights, privileges and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property. [*Part of Act approved February 8, 1887.*]

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*Be it enacted, etc.,* That in order to aid in acquiring and diffusing among the people of the United States useful and practical information on subjects connected with agriculture, and to promote scientific investigation and experiment respecting the principles and application of agricultural science, there shall be established, under direction of the college or colleges or agricultural department of colleges in each state or territory established, or which may hereafter be established in accordance with the provisions of an act approved July second, eighteen hundred and sixty-two, entitled, "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," or any of the supplements to said act, a department to be known and designated as an "agricultural experiment station;" *Provided*, that in any state or territory in which two such colleges have been or may be so established the appropriation hereinafter made to such state or territory shall be equally divided between such colleges, unless the legislature of such state or territory shall otherwise direct.

SEC. 2. That it shall be the object and duty of said experiment stations to conduct original researches or verify experiments on the physiology of plants and animals, the diseases to which they are severally subject, with the remedies for the same; the chemical composition of useful plants at their different stages of growth; the comparative advantages of rotative cropping as pursued under a varying series of crops; the capacity of new plants or trees for acclimation; the analysis of soils and water; the chemical composition of manures, natural or artificial, with experiments designed to test their comparative effects on crops of different kinds; the adaptation and value of grasses and forage plants; the composition and digestibility of the different kinds of food for domestic animals; the scientific and economic questions involved in the production of butter and cheese; and such other researches or experiments bearing directly on the agricultural industry of the United States as may in each case be deemed

advisable having due regard to the varying conditions and needs of the respective states or territories.

SEC. 3. That in order to secure, as far as practicable, uniformity of methods and results in the work of said stations, it shall be the duty of the United States commissioner of agriculture to furnish forms, as far as practicable, for the tabulation of results of investigation or experiments; to indicate, from time to time, such lines of inquiry as to him shall seem most important; and, in general, to furnish such advice and assistance as will best promote the purposes of this act. It shall be the duty of each of said stations, annually, on or before the first day of February, to make to the governor of the state or territory in which it is located a full and detailed report of its operations, including a statement of receipts and expenditures, a copy of which report shall be sent to each of said stations, to the said commissioner of agriculture, and to the secretary of the treasury of the United States.

SEC. 4. That bulletins or reports of progress shall be published at said stations at least once in three months, one copy of which shall be sent to each newspaper in the states or territories in which they are respectively located, and to such individuals actually engaged in farming as may request the same, and as far as the means of the station will permit. Such bulletins or reports and the annual reports of said stations shall be transmitted in the mails of the United States free of charge for postage, under such regulations as the postmaster-general may from time to time prescribe.

SEC. 5. That for the purpose of paying the necessary expenses of conducting investigations and experiments and printing and distributing the results as hereinbefore prescribed, the sum of fifteen thousand dollars per annum is hereby appropriated to each state, to be specially provided for by congress in the appropriations from year to year, and to each territory entitled under the provisions of section eight of this act, out of any money in the treasury proceeding from the sales of public lands, to be paid in equal quarterly payments, on the first day of January, April, July and October in each year, to the treasurer or other officer duly appointed by the governing boards of said colleges to receive the same, the first payment to be made on the first day of October, eighteen hundred and eighty-seven; *Provided, however*, that out of the first annual appropriation so received by any station an amount not exceeding one-fifth may be expended in the erection, enlargement, or repair of a building or buildings necessary for carrying on the work of such station; and thereafter an amount not exceeding five per centum of such annual appropriation may be so expended.

SEC. 6. That whenever it shall appear to the secretary of the treasury from the annual statement of receipts and expenditures of any of said stations that a portion of the preceding annual appropriation remains unexpended, such amount shall be deducted from the next succeeding annual appropriation to such station, in order that

the amount of money appropriated to any station shall not exceed the amount actually and necessarily required for its maintenance and support.

SEC. 7. That nothing in this act shall be construed to impair or modify the legal relation existing between any of the said colleges and the government of the states or territories in which they are respectively located.

SEC. 8. That in states having colleges entitled under this section to the benefits of this act and having also agricultural experiment stations established by law separate from said colleges, such states shall be authorized to apply such benefits to experiments at stations so established by such states; and in case any state shall have established under the provisions of said act of July second aforesaid, an agricultural department or experimental station, in connection with any university, college or institution not distinctively an agricultural college or school, and such state shall have established or shall hereafter establish a separate agricultural college or school, which shall have connected therewith an experimental farm or station, the legislature of such state may apply in whole or in part the appropriation by this act made, to such separate agricultural college, or school, and no legislature shall by contract express or implied disable itself from so doing.

SEC. 9. That the grants of money authorized by this act are made subject to the legislative assent of the several states and territories to the purposes of said grants; *Provided*, that payment of such installments of the appropriation herein made as shall become due to any state before the adjournment of the regular session of its legislature meeting next after the passage of this act shall be made upon the assent of the governor thereof duly certified to the secretary of the treasury.

SEC. 10. Nothing in this act shall be held or construed as binding the United States to continue any payments from the treasury to any or all the states or institutions mentioned in this act, but congress may at any time amend, suspend or repeal any or all the provisions of this act. [*Approved March 2, 1887.*]

## THE OMNIBUS BILL.

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AN ACT, to Provide for the Division of Dakota into Two States, and to Enable the People of North Dakota, South Dakota, Montana and Washington to Form Constitutions and State Governments, and to be Admitted into the Union on an Equal Footing with the Original States, and to Make Donations of Public Lands to Such States.

*Be it Enacted by the Senate and House of Representatives of the United States of America, in Congress Assembled:*

SECTION 1. The inhabitants of all that part of the area of the United States now constituting the Territories of Dakota, Montana, and Washington, as at present described, may become the States of North Dakota, South Dakota, Montana and Washington respectively as hereinafter provided.

SEC. 2. The area comprising the Territory of Dakota, shall for the purposes of this act, be divided on the line of the seventh standard parallel produced due west to the western boundary of said territory; and the delegates elected as hereinafter provided to the constitutional convention in districts north of said parallel shall assemble in convention at the time prescribed in this act, at the city of Bismarck; and the delegates elected in districts south of said parallel, shall at the same time, assemble in convention at the city of Sioux Falls.

SEC. 3. That all persons who are qualified by the laws of said territories to vote for representatives to the legislative assemblies thereof, are hereby authorized to vote for and choose delegates to form conventions in said proposed states; and the qualifications for delegates to such conventions shall be such as by the laws of said territories respectively persons are required to possess to be eligible to the legislative assemblies thereof; and the aforesaid delegates to form said conventions shall be apportioned within the limits of the proposed states in such districts as may be established as herein provided, in proportion to the population in each of said counties and districts, as near as may be, to be ascertained at the time of making said apportionments by the persons hereinafter authorized to make the same, from the best information obtainable in each of which districts three delegates shall be elected, but no elector shall vote for more than two persons for delegates to such conventions; that said

apportionments shall be made by the governor, the chief justice and the secretary of said territories; and the governor of said territories, shall by proclamation order an election of the delegates aforesaid in each of said proposed states, to be held on the Tuesday after the second Monday in May, 1889, which proclamation shall be issued on the 15th day of April, 1889; and such election shall be conducted, the returns made, the result ascertained and the certificates to persons elected to such convention, issued in the same manner as is prescribed by the laws of the said territories regulating elections therein for delegates to congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said conventions respectively shall be seventy-five; and all persons resident in said proposed state who are qualified voters of said territories as herein provided shall be entitled to vote upon the election of delegates, and under such rules and regulations as said conventions may prescribe not in conflict with this act, upon the ratification or rejection of the constitutions.

SEC. 4. That the delegates to the conventions elected as provided for in this act, shall meet at the seat of government of each of said territories, except the delegates elected in South Dakota, who shall meet at the city of Sioux Falls, on the 4th day of July, 1889, and after organization, shall declare on behalf of the people of said proposed states that they adopt the constitution of the United States; whereupon the said conventions shall be, and are hereby authorized, to form constitutions and state governments for the said proposed states respectively. The constitutions shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not to be repugnant to the constitution of the United States and the principles of the declaration of independence. And said conventions shall provide by ordinances irrevocable without the consent of the United States and the people of said states:

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said states shall ever be molested in person or property on account of his or her mode of religious worship.

Second. That the people inhabiting said proposed states do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof and to all lands lying within said limits owned or held by any Indian or Indian tribes: and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said states shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the states on lands or property therein

belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein, or the ordinances herein provided for, shall preclude the said states from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation; but said ordinances shall provide that all such lands shall be exempt from taxation by said states so long and to such extent as such act of congress may prescribe.

Third. That the debts and liabilities of said territories shall be assumed and paid by said states respectively.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all children of said states, and free from sectarian control.

SEC. 5 That the convention which shall assemble at Bismarck shall form a constitution and state government for a state to be known as North Dakota, and the convention which shall assemble at Sioux Falls shall form a constitution and state government for a state to be known as South Dakota; Provided, that at the election for delegates to the constitutional convention in South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot the words "for the Sioux Falls constitution," or the words, "against the Sioux Falls constitution," and the votes on this question shall be returned and canvassed in the same manner as for the election provided for in section three of this act; and if a majority of all votes cast on this question shall be "for the Sioux Falls constitution," it shall be the duty of the convention which may assemble at Sioux Falls as herein provided, to resubmit to the people of South Dakota for ratification or rejection at the election hereinafter provided for in this act, the constitution framed at Sioux Falls and adopted Nov. 3, 1885, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only as relate to the name and boundary of the proposed state, to the reapportionment of the judicial and legislative districts, and such amendments as may be necessary in order to comply with the provisions of this act; and if a majority of the votes cast on the ratification or rejection of the constitution shall be for the constitution irrespective of the articles separately submitted, the state of South Dakota shall be admitted as a state in the Union under said constitution as hereinafter provided; but the archives, records and books of the Territory of Dakota shall remain at Bismarck, the capital of North Dakota, until an agreement in reference thereto is reached by said states. But if at the election for delegates to the constitutional convention in South Dakota a majority of all the votes cast at that election shall be against the Sioux Falls con-

stitution then and in that event it shall be the duty of the convention which will assemble at the city of Sioux Falls, on the fourth day of July, 1889, to proceed to form a constitution and state government as provided in this act the same as if that question had not been submitted to a vote of the people of South Dakota.

SEC. 6. It shall be the duty of the constitutional conventions of North Dakota and South Dakota to appoint a joint commission to be composed of not less than three members of each convention, whose duty it shall be to assemble at Bismarck, the present seat of government of said territory, and agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records and also adjust and agree upon the amount of the debts and liabilities of the territory, which shall be assumed and paid by each of the proposed states of North Dakota and South Dakota; and the agreement reached respecting the territorial debts and liabilities shall be incorporated in the respective constitutions, and each of said states shall obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such states respectively.

SEC. 7. If the constitutions formed for both North Dakota and South Dakota shall be rejected by the people at the elections for the ratification or rejection of their respective constitutions as provided for in this act, the territorial government of Dakota shall continue in existence the same as if this act had not been passed. But if the constitution formed for either North Dakota or South Dakota shall be rejected by the people, that part of the territory so rejecting its proposed constitution shall continue under the territorial government for the present Territory of Dakota, but shall after the state adopting its constitution is admitted into the Union, be called by the name of the Territory of North Dakota or South Dakota, as the case may be; Provided, That if either of the proposed states provided for in this act shall reject the constitution which may be submitted for ratification or rejection at the election provided therefor, the governor of the territory in which such proposed constitution was rejected shall issue his proclamation reconvening the delegates elected to the convention which formed such rejected constitution, fixing the time and place at which said delegates shall assemble; and when so assembled they shall proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed state for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and to the constitution which may be formed, its ratification or rejection, and to the admission of the proposed state.

SEC. 8. That the constitutional convention which may assemble in South Dakota shall provide by ordinance for resubmitting the Sioux Falls constitution of 1885, after having amended the same as

provided in section 5 of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, 1889, but if said constitutional convention is authorized and required to form a new constitution for South Dakota it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection at an election to be held in said proposed state on the said first Tuesday in October. And the constitutional conventions which may assemble in North Dakota, Montana and Washington shall provide in like manner for submitting the constitutions formed by them to the people of said proposed states respectively, for ratification or rejection at elections to be held in said proposed states on the said first Tuesday in October. At the elections provided for in this section the qualified voters of said proposed states shall vote directly for or against the proposed constitutions, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the secretary of each of said territories, who, with the governor and chief justice thereof, or any two of them, shall canvass the same; and if a majority of the legal votes cast shall be for the constitution, the governor shall certify the result to the president of the United States; together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of said constitutions, articles, propositions and ordinances. And if the constitutions and governments of said proposed states are republican in form, and if all the provisions of this act have been complied with in the formation thereof; it shall be the duty of the president of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed states which have adopted constitutions and formed state governments as herein provided shall be deemed admitted by congress into the Union under and by virtue of this act on an equal footing with the original states from and after the date of said proclamation.

SEC. 9 That until the next general census or until otherwise provided by law, said states shall be entitled to one representative in the house of representatives of the United States, except South Dakota which shall be entitled to two; and the representatives to the fifty-first congress, together with the governors and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said state officers are elected and qualified under the provisions of each constitution and the states respectively, are admitted into the Union, the territorial officers shall continue to discharge the duties of their respective offices in each of said territories.

SEC. 10. That upon the admission of each of said states into the Union sections numbered 16 and 36 in every township of said proposed states, and where such sections or any parts thereof have been sold or otherwise disposed of by or under the authority of any act of congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section and as contiguous as may be

to the section in lieu of which the same is taken, are hereby granted to said states for the support of common schools, such indemnity lands to be selected within said states in such manner as the legislature may provide, with the approval of the secretary of the interior; provided, that the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not at any time be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

SEC. 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than \$10 per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislatures shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such land shall not be subject to pre-emption, homestead entry or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 12. That upon the admission of each of said states into the Union, in accordance with the provisions of this act, fifty sections of the unappropriated public lands within said states, to be selected and located in legal subdivisions as provided in section ten of this act, shall be, and are hereby granted to said states for the purpose of erecting public buildings at the capital of said state for legislative, executive and judicial purposes.

SEC. 13. That five per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the Union after deducting all the expenses incident to the same, shall be paid to the said states, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states respectively.

SEC. 14. That the lands granted to the territories of Dakota and Montana by the act of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," are hereby vested in the states of South Dakota, North Dakota and Montana respectively, if such states are admitted into the Union as provided in this act, to the extent of the full quantity of seventy-two sections to each of said states, and any portion of said lands that may not have been selected by either of said territories of Dakota or Montana may be selected by the respective states aforesaid, but said act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be

safely invested and held by said states severally, and the income thereof be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July 17, 1854, to be reserved for university purposes in the Territory of Washington, as together with the lands confirmed to the vendees of the territory by the act of March 14, 1864, will make the full quantity of seventy-two entire sections, are hereby granted in like manner to the state of Washington for the purpose of a university in said state. None of the lands granted in this section shall be sold at less than \$10 per acre; but said lands may be leased in the same manner as provided in section eleven of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of the said states respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college or university. The section of land granted by the act of June 16, 1880, to the Territory of Dakota, for an asylum for the insane, shall upon the admission of said State of South Dakota into the Union become the property of said state.

SEC. 15. That so much of the lands belonging to the United States as have been acquired and set apart for the purpose mentioned in an "An act appropriating money for the erection of a penitentiary in the Territory of Dakota," approved March 2, 1881, together with the buildings thereon, be, and the same is hereby granted, together with any unexpended balance of the moneys appropriated therefor by said act, to said State of South Dakota for the purposes therein designated; and the States of North Dakota and Washington, shall respectively, have like grants for the same purposes, and subject to like terms and conditions as provided in said act of March 2, 1881, for the Territory of Dakota. The penitentiary at Deer Lodge City, Mont., and all lands connected therewith and set apart and reserved therefor, are hereby granted to the State of Montana.

SEC. 16. That 90,000 acres of land to be selected and located as provided in section ten of this act, are hereby granted to each of said states except to the state of South Dakota, to which 120,000 acres are granted, for the use and support of agricultural colleges in said states, as provided in the acts of congress making donations of lands for such purpose.

SEC. 17. That in lieu of the grant of land for purposes of internal improvement made to new states by the eighth section of the act of September 4, 1841, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September 28, 1850, and section 2479, of the Revised Statutes, making a grant of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline lands to said states, the following grants of land are hereby made, to-wit:

To the State of South Dakota: For the school of mines, 40,000 acres, for the reform school, 40,000 acres; for the deaf and dumb asylum, 40,000 acres; for the agricultural college, 40,000; for the university, 40,000 acres; for the state normal schools, 80,000 acres; for public buildings at the capital of said state, 50,000 acres, and for such other educational and charitable purposes as the legislature of said state may determine, 170,000 acres; in all 500,000 acres.

To the State of North Dakota a like quantity of land as is in this section granted to the state of South Dakota and to be for like purposes, and in like proportion as far as practicable.

To the State of Montana: For the establishment and maintenance of a school of mines, 100,000 acres; for the state normal schools, 100,000 acres; for agricultural colleges, in addition to the grant hereinbefore made for that purpose, 50,000 acres; for the establishment of a state reform school, 50,000 acres; for the establishment of a deaf and dumb asylum, 50,000 acres; for public buildings at the capital of the state, in addition to the grant hereinbefore made for that purpose, 150,000 acres.

To the State of Washington: For the establishment and maintenance of a scientific school, 100,000 acres; for the state normal schools, 100,000 acres; for public buildings at the state capital in addition to the grant hereinbefore made for that purpose, 100,000 acres; for state charitable, educational, penal and reformatory institutions, 200,000 acres.

That the states provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated and disposed of exclusively for the purposes herein mentioned, in such manner as the legislatures of the respective states may severally provide.

SEC. 18. That all mineral lands shall be exempted from the grants made by this act. But if sections 16 and 36, or any subdivision or portion of any smallest sub-division thereof in any township shall be found by the department of the interior to be mineral lands, said states are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said states, in lieu thereof, for the use and benefit of the common schools of said states.

SEC. 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the secretary of the interior, from the surveyed, unresurveyed and unappropriated public lands of the United States within the limits of the respective states entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said states the number of acres in each heretofore donated by congress to said territories for similar objects.

SEC. 20. The sum of \$20,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not

otherwise appropriated, to each of said territories for defraying the expenses of the said conventions, except to Dakota for which the sum of \$40,000 is so appropriated, \$20,000 each for South Dakota and North Dakota, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the territorial legislatures. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

SEC. 21. That each of said states, when admitted as aforesaid, shall constitute one judicial district, the names thereof to be the same as the names of the states, respectively; and the circuit and district courts therefor shall be held at the capital of such state for the time being, and each of said districts shall, for judicial purposes, until otherwise provided be attached to the Eighth judicial circuit, except Washington and Montana, which shall be attached to the Ninth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney and one United States Marshal. The judge of each of said districts shall receive a yearly salary of \$3,500, payable in four equal installments, on the first days of January, April, July and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said state. The regular terms of said courts shall be held in each district at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts. The circuit and district courts for each of said districts and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney and clerks of the circuit and district courts of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the state of Nebraska.

SEC. 22. That all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States upon any record from the supreme court of either of the territories mentioned in this act, or that may hereafter lawfully be prosecuted upon any record from either of said courts, may be heard and determined by said supreme court of the United States. And the mandate of execution or of further proceedings shall be directed by the supreme court of the United States to the circuit or district court hereby established within the state succeeding the territory from

which such record is or may be pending, or to the supreme court of such state, as the nature of the case may require; *Provided*, that the mandate of execution or of further proceedings shall, in cases arising in the Territory of Dakota, be directed by the supreme court of the United States to the circuit or district court of the district of South Dakota, or to the supreme court of the state of South Dakota, or to the circuit or district court of North Dakota, or to the supreme court of the state of North Dakota, or to the supreme court of the Territory of North Dakota as the nature of the case may require. And each of the circuit, district and state courts, herein named, shall, respectively be the successor of the supreme court of the territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts respectively with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of either of the territories mentioned in this act, in any case arising within the limits of any of the proposed states prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the supreme court of the United States as they shall have had by law prior to the admission of said state into the Union.

SEC. 23. That in respect to all cases, proceedings and matters now pending in the supreme or district courts of either of the territories mentioned in this act at the time of the admission into the union of either of the states mentioned in this act, and arising within the limits of any such state, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said territory; and in respect to all other cases, proceedings and matters pending in the supreme or district courts of any of the territories mentioned in this act at the time of the admission of such territory into the union, arising within the limits of said proposed state, the courts established by such state shall, respectively, be the successors of said supreme and district territorial courts; and all the files, records, indictments and proceedings relating to any such cases, shall be transferred to such circuit, district and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that prior to the admission of any of the states mentioned in this act, shall be pending in any territorial court in any of the territories mentioned in this act, shall abate by the admission of any such state into the Union, but the same shall be transferred and proceeded with in the proper United States circuit, district or state court, as the case may be; *Provided*, however, that in all civil actions, causes and proceedings, in which the United States is not a party, transfers shall not be made to the circuit and district courts of the United States except upon the written request of one of the parties to such action or pro-

ceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with within the proper state courts.

SEC. 24. That the constitutional conventions may, by ordinance, provide for the election of officers for full state governments, including members of the legislatures and representatives in the fifty-first congress; but said state governments shall remain in abeyance until the states shall be admitted into the Union respectively, as provided in this act. In case the constitution of any of said proposed states shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize and elect two senators of the United States; and the governor and secretary of state of such proposed state shall certify the election of the senators and representatives in the manner required by law; and when such state is admitted into the Union, the senators and representatives shall be entitled to be admitted to seats in congress, and to all the rights and privileges of senators and representatives of other states in the Congress of the United States; and the officers of the state governments formed in pursuance of said constitutions, as provided by the constitutional conventions, shall proceed to exercise all the functions of such state officers; and all laws in force made by said territories, at the time of their admission into the Union, shall be in force in said states, except as modified or changed by this act, or by the constitutions of the states respectively.

SEC. 25. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislatures of said territories or by congress, are hereby repealed.

Approved February 22, 1889.

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## AUTHENTICATION.

TERRITORY OF DAKOTA, {  
Secretary's Office, Bismarck. }

I hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills, passed by the Legislative Assembly, at the eighteenth session thereof, begun and held at Bismarck, January 8, A. D. 1889, now on file in this office, with the exception of clerical errors appearing enclosed in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed  
[L. S.] the Great Seal of the Territory of Dakota, this 6th day  
June, A. D. 1889.

L. B. RICHARDSON,  
*Secretary of the Territory of Dakota.*

# GENERAL LAWS.

## ABSTRACTERS.

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### CHAPTER 1.

#### TO GIVE BOND.

AN ACT Entitled an Act to Provide Security to the Public Against Errors, Omissions and Defects in Abstracts of Title to Real Estate.

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

§ 1. ABSTRACTERS TO GIVE BOND.] It shall be unlawful for any person, firm or corporation to engage in the business of making or compiling abstracts of title to real estate in the Territory of Dakota, or to demand and receive pay for the same without first filing in the office of the County Clerk or Auditor of the county in which such business is conducted a bond to the county in which said business of abstracting is conducted, in the penal sum of ten thousand (\$10,000) dollars, with not less than three sureties, residents of the county, to be approved by the board of county commissioners of such county conditioned for the payment by such abstracters of any and all damages that may accrue to any party or parties by reason of any error, deficiency or mistake in any abstract or certificate of title made and issued by said person, firm or corporation; *Provided*, That in counties of less than ten thousand (10,000) inhabitants, the bond herein required shall be five thousand (\$5,000) dollars.

§ 2. CERTIFICATE OF FILING.] When any abstracter shall have duly filed his bond and the same shall have been approved, as above provided, he shall be entitled to receive a certificate from such county clerk (or Auditor) that said bond has been by the board of county commissioners of such county duly approved, and that the same has

been filed in his office, which certificate shall be valid so long as such abstractor shall maintain his surety upon the bond as herein provided for unimpaired.

And it is hereby made the duty of said county clerk or auditor after the bond of any abstractor shall have been filed and approved to issue to such abstractor on demand, a certificate of authority in writing, under his hand and official seal, to make such abstracts which shall continue in force for five (5) years, unless recalled or cancelled, as provided in section three of this act. After such certificate shall have been issued, the person, firm or corporation holding the same during the continuance of such certificate, shall have full access to all records of said county during office hours; and it is hereby made the duty of any person, firm or corporation holding said certificate, to furnish an abstract of the title to any tract of land in said county when requested so to do, and on the payment of the fees hereafter provided.

§ 3. ADDITIONAL SECURITY.] The bond herein provided for may run during the continuance of said person, firm or corporation in said abstract business not to exceed five years, and the board of county commissioners of the county where the bond herein provided for may be filed, may at any time require such abstractor upon ten days notice to give additional security upon said bond, and show cause why the same should not be declared invalid, and the certificate thereof recalled and annulled, and if within such time the additional security to be approved by said board of county commissioners be not furnished, and no sufficient reason be shown to the commissioners why the same should not be required, then said bond shall be declared invalid and the certificate thereof be recalled and annulled.

§ 4. APPEAL.] The abstractor or complainant may have an appeal to the district court of such county from the decision of the board of county commissioners by preserving the evidence taken at the hearing, which shall be certified up by the county clerk (or auditor) of such county, and such appeal shall be summarily decided by the court upon such evidence, and the cost of such appeal including the furnishing of said evidence shall be adjudged against the defeated party.

§ 5. PENALTY FOR VIOLATION.] Any person, firm or corporation violating the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars, and not less than twenty-five dollars, for each and every offense.

§ 6. OFFICERS CERTIFICATES OF ABSTRACTS.] The provisions of this act shall not be construed to prevent the Register of Deeds, Treasurers and Clerks of court of the different counties of this Territory from certifying to abstracts of titles to land from the records of their respective offices; *Provided*, That such officers shall be liable on their official bonds for the faithful performance of all acts as abstracters.

§ 7. FEES. The fees allowed said person, firm or corporation doing business under the provisions of this act, shall be as follows, and no more: For the first entry or transfer on any one abstract one (\$1.00) dollar; for each subsequent entry, or transfer on said abstract twenty-five cents (25c.); for entry or certificate relating to taxes, twenty-five cents (25c.); for entry or certificate relating to Mechanics' liens, twenty-five cents (25c.); for certificate as to judgments, which may constitute a lien on the property so abstracted, fifteen cents (15c.); for each name so certified to. And it shall be the duty of said abstracters to continue any abstract so made by them, on the payment of twenty-five cents (25c.) for each entry made thereon, and twenty-five cents (25c.) for the certificate of continuation thereto.

§ 8. SEAL.] Any person, firm or corporation furnishing abstracts of titles to real property under the provisions of this act, shall first provide a seal, which seal shall have stamped thereon the name and location of said person, firm or corporation, and shall deposit with the county clerk or auditor an impression of said seal, before the certificate mentioned in section 2, shall issue, which said seal shall be affixed to every abstract or certificate of title, issued by said abstracters.

§ 9. REPEAL.] All acts, and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 10. WHEN TAKES EFFECT. This act shall take effect, and be in force, from and after the 10th day of April, A. D., 1889.

COUNCIL CHAMBER,  
BISMARCK, D. T., March 8, 1889. }

I hereby certify that the within act, together with the objections of his Excellency, Governor Louis K. Church, was returned to the Council, the House in which it originated, on the 8th day of March, 1889. That the objections of the Governor were read at length and entered upon the Journal, that thereupon the said bill was laid over for consideration until March 8th, 1889, and upon that day the matter coming up for consideration the question was put, "Shall this bill pass, the objections of the Governor to the contrary, notwithstanding?" The roll was called and the bill 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.

HOUSE OF REPRESENTATIVES,  
BISMARCK, DAKOTA, March 8, 1889. }

I hereby certify that the within act, together with the objections of his Excellency, Governor Louis K. Church was received by the House from the Council, that being the House in which it originated, on the 8th day of March, 1889. That the objections of the Governor were read at length and entered upon the Journal. That thereupon the said bill came before the House for consideration and the question was put, "Shall this bill pass, the objections of the Governor to the contrary, notwithstanding?" The roll was called and the bill did pass, more than two-thirds of the members present and voting, voting in the affirmative.

Attest: JNO. C. HAMILTON,  
Chief Clerk.

H. H. KEITH,  
Speaker of the House.

## ACTS VOID.

### CHAPTER 2.

#### TO CORRECT STATUTES.

AN ACT To Correct the Public Statutes of the Seventeenth Session of the Legislative Assembly.

PREAMBLE.] WHEREAS, House Bill, number 277, entitled A Bill for an act to amend section forty-five, chapter twenty-one, of the Political Code, relating to the manner of letting contracts by county boards, is enrolled in the office of the Secretary of the Territory as having been duly enacted by the Legislative Assembly and approved by the Governor, and is published as chapter 31 of the Session Laws of 1887; and

WHEREAS, House Bill number 349, A bill for an act to amend chapter sixty-three of the Session Laws of 1885, entitled: An act establishing Territorial and county boards of health, and providing for the protection of the health of persons and animals, and for other purposes, is likewise enrolled in said Secretary's office and published in said Session Laws of 1887 as chapter 61; and

WHEREAS, The journal of the council of the Seventeenth Session of the Legislative Assembly shows that said House Bills numbers 277 and 349 failed to pass said body as is required in order for them to become laws; therefore, Be it enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. INDORSEMENT BY SECRETARY.] That the Secretary of the Territory is hereby directed to endorse his rolls of House Bill number 277 and House Bill number 349 as "Not duly enacted."

§ 2. DECLARED VOID.] That chapters 31 and 61, as published in the laws of the Seventeenth Session of the Legislative Assembly, are hereby declared void from the beginning and of no force or effect.

§ 3. EFFECT—WHEN.] This act shall be in force from and after its passage.

Approved, February 26, 1889.

## ACTS OF ASSEMBLY.

### CHAPTER 3.

#### WHEN THEY TAKE EFFECT.

AN ACT Entitled an Act to Provide when Laws shall go into Force and Effect.

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

§ 1. IN EFFECT, WHEN.] That all laws hereafter enacted by the Legislative Assembly of Dakota unless otherwise expressly provided therein shall be in force and take effect on the first day of July after their passage and approval.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. IN EFFECT.] This act shall be in force and take effect immediately after its passage and approval.

Approved, February 28, 1889.

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## ACKNOWLEDGMENTS.

### CHAPTER 4.

#### WITHOUT THE UNITED STATES—BY WHOM MADE.

AN ACT To Amend Section 658 of the Civil Code Relating to Acknowledgment of Instruments.

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

§ 1. ACKNOWLEDGMENTS BEFORE WHOM MADE.] That section 658 of the civil code, be, and the same is hereby amended to read as follows:

§ 658. The proof or acknowledgment of an instrument may be made without the United States, before either.

1. A minister, commissioner or *charge d'affairs* of the United States, resident and accredited in the country where the proof of acknowledgment is made; or

2. A consul, vice-consul, or consular agent of the United States resident in the country where the acknowledgment is made; or

3. A judge, clerk, register or commissioner of a court of record of the country where the proof of acknowledgment is made; or

4. A notary public of such country; or

5. An officer authorized by the laws of the country where the proof of acknowledgment is taken, to take proof or acknowledgments; or

6. When any of the officers mentioned in this section are authorized to appoint a deputy, the acknowledgment or proof may be taken before such deputy.

7. All proofs or acknowledgments heretofore taken according to the provisions of this section, are hereby declared to be sufficiently authenticated and to be entitled to record, and all such record hereafter made shall be notice of the contents of the instrument so recorded.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved, March 8, 1889.

## CHAPTER 5.

### A JOINT RESOLUTION.

JOINT RESOLUTION Authorizing the Adjutant General to turn over to the directors of the "University of Dakota," One Hundred Condemned Muskets, for use for Drilling Purposes.

*Be it Resolved by the House of Representatives, the Council concurring :*

THAT the Adjutant General be, and he is hereby authorized, by and under the direction of the Governor, to turn over to the directors of the "University of Dakota," one hundred condemned muskets for the use of the students of said university for drilling purposes.

Approved, March 5, 1889.

## ADOPTION OF CHILDREN.

### CHAPTER 6.

#### APPEARANCE BY INSTRUMENT IN WRITING.

AN ACT To Amend Section 112 of the Civil Code relating to the Adoption of Children.

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

§ 1. That section 112 of the Civil Code is amended to read as follows:

§ 112. ADOPTED BY WRITTEN INSTRUMENT.] The person adopting a child, and the child adopted, and the other person whose consent is necessary must appear before the probate judge of the county where the person adopting resides, and the necessary consent must thereupon be filed, and an agreement be executed by the person adopting, and filed with the probate court to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated: *Provided*, That the appearance, by an instrument in writing duly executed and acknowledged, may be entered by any person, except the child, whose consent is necessary.

§ 2. This act shall take effect from and after its passage and approval.

Approved, March 7, 1889.

# AGRICULTURE.

## CHAPTER 7.

### AMENDMENT OF CERTAIN SECTIONS.

AN ACT to Amend Sections 1, 5, 6, 7, 9, 12, 13, and 15 of Chapter 3 of the General Laws of 1887, entitled "An Act to Create a Territorial Department of Agriculture and Relating to Agricultural Societies and Agricultural Fairs, and Providing for Reports of same."

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

§ 1. TWO DISTRICTS.] That sections 1, 5, 6, 7, 9, 12, 13 and 15, of chapter 3 of the General Laws of 1887, entitled: "An act to create a Territorial Department of Agriculture, and relating to Agricultural societies and Agricultural fairs, and providing for reports of same," are hereby amended to read as follows:

DEPARTMENT OF AGRICULTURE CREATED—TWO DISTRICTS.] There is hereby created a Department of Agriculture for the promotion of agriculture and horticulture, manufactures and domestic arts, which said department shall be divided into two districts and shall be managed by boards styled District Boards of Agriculture, to consist of one person from each Legislative district, within the limits of the agricultural districts hereinafter defined, and who shall be first appointed by the Governor for the second district and for the year 1887, the persons comprising the present board of agriculture who reside within the said first district, shall continue as the board of agriculture for said first district and thereafter according to the provisions of this act. The board for district number one shall meet at Huron on the 29th day of March, 1887. And the board of district number two shall meet at Fargo on the twenty-ninth day of March, 1887, for the election of officers and for the location of annual fairs, and annually thereafter at their first annual meeting.

The members of said district boards shall be chosen as follows, by delegates or alternates, or the written proxies thereof, of their respective legislative districts, chosen by the several agricultural societies in counties where such societies exist in the following manner, to-wit: In counties having one agricultural society, such county may appoint three delegates, in counties having two agricultural societies, each society may appoint one delegate, who

shall be entitled to one and one-half votes; in counties having three agricultural societies, each society may appoint one delegate, and if either society shall neglect or refuse to appoint such delegate, the delegate or delegates appointed shall be entitled to cast the full vote of the county; and in counties where no agricultural society exists the delegates may be appointed by the board of supervisors or county board as the case may be, each county to be entitled to three votes and no more, and each union or district agricultural society shall be accredited to that county in which its fair grounds or the greater part thereof shall be located. Delegates so chosen, shall meet and cast their votes for their respective members on the fair grounds on the Wednesday of the week of the annual fairs. In case of a tie election it shall be decided by chance. The members of said district boards shall enter upon the duties of their office on the second Tuesday of January succeeding their election, and hold office for one year and until their successors are elected and qualified. The district boards may fill any vacancy arising from any cause by appointment, from the district in which the vacancy may occur. All that portion of the Territory of Dakota lying south of the Seventh standard parallel shall be styled and known as district number one, and all that portion of the Territory of Dakota lying north of said parallel shall be styled and known as district number two.

§ 5. POWERS OF DISTRICT BOARDS.] The district boards of agriculture in their respective names may contract and be contracted with; may hold meetings for the necessary transaction of business; may purchase, hold or sell property; may sue or be sued in all courts of justice; may hold district fairs, farmers' institutes, and fat stock shows, at such times and places, as the board may determine, but this Territory shall never be liable for any debt or contract of said board.

§ 6. BOARDS HAVE CONTROL.] The district boards of agriculture shall have the sole control of the affairs of the Department of Agriculture of all district fairs, farmers' institutes, and fat stock shows, and may make such by-laws and rules and regulations in relation to the Department of Agriculture and the management of the business of such department, and district fairs, farmers' institutes, and fat stock shows, and offering of premiums, as a majority of said board shall from time to time determine, not inconsistent with the constitution and laws of the Territory or of the United States.

§ 7. MONIES APPROPRIATED.] There shall be and is hereby annually appropriated out of any moneys in the treasury not otherwise appropriated, the sum of ten thousand dollars, which said sum shall be paid in equal moieties to the district boards of agriculture, and which shall be used only in the payment of premiums and expenses contingent upon the holding of annual fairs, *Provided*, That nothing in this act shall be construed to authorize the expenditure of any of said moneys for the purchase of real estate, or the erection of any building or buildings.

§ 9. REPORTS OF KINDRED ASSOCIATIONS.] Said district boards of agriculture shall append to and publish with their respective reports the annual report of the Territorial Entomologist and such other reports or essays connected with agriculture, horticulture, manufactures or the domestic arts, as in the judgment of said board the interests of the Territory require; said annual reports and appended essays not to exceed seven hundred printed pages, and one thousand copies of said report shall be published annually in pamphlet form, and the same shall be distributed jointly by the presidents of the district boards, and the President of the Territorial, Horticultural and Forestry Association, and a sufficient amount of money is hereby appropriated out of the Territorial Treasury to pay for publishing the same.

§ 12 SALE OF LIQUOR PROHIBITED.] Whoever shall keep any shop, booth, tent, wagon, vessel, boat, or other place for the sale of spirituous liquors, or expose for sale, sell or otherwise dispose of any spirituous liquors, or engage at gaming at or within one-half mile of the place where any agricultural, horticultural or mechanical fair is being held, under the auspices of the district or county boards of agriculture, shall for each offence be fined not less than five, nor more than one hundred dollars; *Provided*, This section shall not affect tavern keepers, distillers or others actually exercising their calling at their usual place of business, six months immediately preceding the holding of the fair.

§ 13. ARREST OF VIOLATORS.] Any person violating the provisions of the preceding section may be arrested upon view, or upon warrant, by any sheriff, coroner, constable, or other officer authorized to make arrest, and such officer may seize and destroy such articles of gaming or liquors, and hold the booth, tent, wagon, vessel or boat and upon a judgment being rendered against the offender, the same may be sold upon the execution issued upon such judgment. And if sufficient property is not found to satisfy such fine, the offender may be committed to the county jail until the fine and costs are paid, or the prisoner discharged according to law.

§ 15. COMPENSATION.] The officers and members of the district boards of agriculture, except the Secretary and Treasurer, shall serve without pay, but shall receive mileage at the rate of ten cents per mile one way from their home to the place of meeting of the society, and their necessary expenses while in the discharge of their duties, which shall be paid by the Territorial Treasurer, upon a warrant issued and certified to, by the president of the district boards of agriculture.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

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

HOUSE OF REPRESENTATIVES,  
BISMARCK, D. T., March 5, 1889. }

I hereby certify that on the 5th day of March, 1889, this act was returned to the House of Representatives the House in which it originated without the approval of his Excel-

lency, 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 this bill pass the objections of the Governor to the contrary, notwithstanding?" The roll was called, and the bill did pass, more than two-thirds of the members present and voting, voting in the affirmative.

Attest: JNO. G. HAMILTON, Chief Clerk. H. H. KEITH, Speaker of the House.

COUNCIL CHAMBER,  
BISMARCK, D. T., March 5, 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 5th day of March, A. D. 1889; that the objections of the Governor were read at length and entered upon 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 bill 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.

## ANIMALS.

### CHAPTER 8.

#### PROHIBITION OF THE IMPORTATION SALE OR EXPOSURE OF INFECTED.

AN ACT, To prohibit the importation, sale or exposure of infected animals and to prescribe punishments therefor.

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

§ 1 MISDEMEANOR.] If any person knowingly import or bring into this Territory any horse, mule or ass affected by the disease known as glanders or buttonfarcy, or suffer the same to run at large upon any common, highway or uninclosed land, or use, tie or keep the same in any public place, stable or barn, or sell, trade or offer to sell or trade any such horse, mule or ass, knowing or having good reason to believe the same to be so diseased, he shall be deemed guilty of a misdemeanor and shall on conviction be punished by a fine of not less than fifty nor more than five hundred dollars, and in default of payment shall be imprisoned for any period not exceeding twelve months or by both such fine and imprisonment in the discretion of the court.

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

Approved March 7, 1889.

# APPROPRIATION.

## CHAPTER 9.

### GENERAL APPROPRIATION BILL.

AN ACT, Providing for an appropriation for the maintenance of the several Public Institutions of the Territory of Dakota.

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

§ 1. IN GENERAL.] That there is hereby appropriated the following sums of money, or so much thereof as may be necessary out of any monies in the Territorial Treasury not otherwise appropriated for the purpose of paying the current and contingent expenses of the different Territorial Institutions of Dakota, as hereinafter mentioned for the ensuing two years, viz:

“University of Dakota, at Vermillion;” “University of North Dakota, at Grand Forks;” “Madison Normal School, of Madison;” “Normal School, at Spearfish;” “Dakota Reform School, at Plankington;” “Dakota Agricultural College, at Brookings;” “School of Mines, at Rapid City;” “Dakota School for Deaf Mutes, at Sioux Falls;” “Dakota Penitentiary, at Sioux Falls;” Bismarck Penitentiary, at Bismarck, Dakota;” “Dakota Hospital for Insane, at Yankton, Dakota;” “North Dakota Hospital for Insane, at Jamestown, Dakota;” Commissioner of Immigration.”

#### § 2. UNIVERSITY OF DAKOTA.]

##### UNIVERSITY OF DAKOTA.

For the salaries of president, professors and teachers.....	\$ 50 000
For janitor and engineer.....	2 500
For secretary and superintendent.....	2 000
For library.....	1 000
For apparatus and cabinets.....	1 500
For furniture.....	1 500
For lights and fuel.....	7 000
For contingent fund.....	1 000
For alteration and repairs to building.....	500
For grounds and repairs.....	1 000
For water and drainage.....	2 500

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\$ 70 000

§ 3. UNIVERSITY OF NORTH DAKOTA.]

UNIVERSITY OF NORTH DAKOTA.

For president and for instructional force.....	\$ 36 000
For incidental fund.....	1 500
For museum fund.....	1 000
For library fund.....	1 000
For apparatus fund.....	1 000
For fuel fund.....	5 000
For water supply.....	1 500
For janitor and engineers.....	3 000
For grounds.....	500
For secretary and superintendent.....	2 000
For building repairs.....	1 000
For furnishing and heating for dormitory.....	3 500
Total.....	\$ 57 000

§ 4. MADISON NORMAL SCHOOL.]

FOR THE MADISON NORMAL SCHOOL.

For salaries of president, professor and teachers.....	\$ 21 000
For salary of secretary.....	500
For engineers, firemen and janitor.....	2 500
For fuel and lights.....	3 500
For library, book-cases, etc.....	1 000
For chemicals, shelves etc.....	1 000
For incidental expenses.....	1 000
For deficiency in incidental fund for 1888.....	200
For improvement of grounds.....	1 000
Total.....	\$ 31 700

§ 5. SPEARFISH NORMAL SCHOOL.]

NORMAL SCHOOL AT SPEARFISH.

For salary of principal and teachers.....	\$ 19 600
For pay of janitor.....	1 200
For library and apparatus.....	1 000
For incidental expenses.....	1 000
For fuel and lights.....	1 500
For chemical laboratory.....	1 500
For improvements of grounds.....	1 000
For connecting water works.....	3 500
For museum.....	800
Total.....	\$ 31 100

§ 6. REFORM SCHOOL.]

DAKOTA REFORM SCHOOL AT PLANKINGTON.

For superintendent and employes two years.....	\$ 3 000
For lights and fuel two years.....	2 000

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For maintenance two years.....	5 000
For barns, sheds and tools.....	1 000
Total.....	\$ 11 000

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## § 7. AGRICULTURAL COLLEGE. ]

## DAKOTA AGRICULTURAL COLLEGE.

For salaries of President and Secretary, Professors, Instructors, Book-keeper, Librarian, Foreman, Janitor and Engineer for two years, thirty-five thousand dollars.

For fuel and lights, five thousand five hundred dollars.

For student labor, two thousand dollars.

For incidentals, printing, postage, telegraphing, freight, express, etc., two thousand dollars.

Tools and machinery for shops, cooking range, sewing machines, and other outfit, domestic economy, mathematical instruments, library, fences and farm house repairs, two thousand and three hundred and twenty-five dollars.

Trees, tools, etc., for forestry and gardens, furniture for dormitory and recitation rooms, repairs to steam apparatus, repairs to roof and water pipes and eave troughs, repairs and finishing basement rooms for shops, chemical laboratory, material for cooking classes, six thousand five hundred and fifty dollars.

## § 8. SCHOOL OF MINES. ]

## SCHOOL OF MINES AT RAPID CITY.

For salaries of professors, laboratory, for assistant engineer and mechanic and janitor.....	\$ 24 000
For continuance of geological survey and printing of reports inclusive of printing two thousand copies of last report.....	3 500
For maintenance of laboratory.....	2 000
For fuel, water, library and contingent expenses.....	4 000
Total.....	\$ 33 500

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## § 9. SCHOOL OF DEAF MUTES. ]

## DAKOTA SCHOOL FOR DEAF MUTES, SIOUX FALLS.

For fuel and lights.....	\$ 2 500
Medicines.....	200
Salary of superintendent.....	3 000
Salary of matron.....	1 000
Salary of physician.....	400
Salary of one teacher of first-class.....	1 500
Salary of one assistant first-class.....	1 500
Salary of one teacher of drawing.....	800
Salary of one boys supervisor.....	1 200
For salary of one foreman turner shop.....	800
For salary of one night watchman.....	800
For salary of choreman and gardener.....	800

# APPROPRIATION.

15

For salary of cook and four hall and kitchen girls.....	1 500
For maintenance of pupils, necessary clothing, board of employees and officers residing in school.....	17 000
Incidental fund.....	800
<b>Total.....</b>	<b>\$ 33 800</b>

## § 10. PENITENTIARY, SIOUX FALLS.]

### DAKOTA PENITENTIARY, SIOUX FALLS, D. T.

For warden salary.....	4 000
For deputy warden salary.....	2 000
For clerk and assistant gate keeper.....	1 800
For officers and guards fund.....	20 000
For maintenance fund.....	20 000
For incidental expense fund.....	2 500
For physician and medicine.....	1 000
For discharged convict fund.....	1 500
For fuel, lights, directors and clothing.....	12 000
For repairs and improvements.....	6 500
For teachers and librarian.....	1 000
<b>Total.....</b>	<b>\$ 72 300</b>

## § 11. PENITENTIARY, BISMARCK.]

### TERRITORIAL PENITENTIARY, AT BISMARCK.

Warden's salary for two years.....	\$ 3 800
Deputy wardens salary for two years.....	2 000
Book-keeper and assistant gate keeper.....	1 800
Maintenance for two years.....	16 000
Guards and employees for two years.....	15 000
Fuel and lights for two years.....	6 000
Clothing and bedding for two years.....	2 000
Incidentals for two years.....	2 500
Transportation, clothing and aid to discharged prisoners for two years.....	1 500
Repairs and improvements.....	4 000
Physician and medicine.....	2 000
Teacher and librarian.....	1 000
<b>Total.....</b>	<b>\$ 57 600</b>

## § 12. YANKTON INSANE HOSPITAL.]

### YANKTON INSANE HOSPITAL.

For maintenance of patients.....	\$ 50 000
For wages of employees.....	26 000
For fuel and electric lights for old and new buildings.....	23 000
For drugs, medicines, books and amusements.....	3 000
For incidental expenses.....	2 500
For return and burial of patients.....	1 500

For brick smoke stack and additional coal sheds.....	2 000
For improvement of hospital farm.....	2 000
For improvement of hospital grounds.....	500
Amount due Carr and Richey for work and material on... artesian well.....	575
Total .....	\$ 111 075

§ 13. JAMESTOWN INSANE HOSPITAL.]

HOSPITAL FOR THE INSANE AT JAMESTOWN.

Maintenance of patients.....*	50 000
Fuel and lights.....	25 000
Wages of employes.....	26 000
Water supply.....	1 000
Covering pipes.....	500
Electric light supplies.....	1 000
Furniture .....	1 500
Returning patients and burial of the dead.....	1 500
Medical supplies, surgical instruments and books.....	2 000
Farm machinery.....	500
Improvement of grounds.....	500
Plumbing in old building.....	500
Repair fund.....	2 000
Incidental fund.....	2 500

Total..... \$ 114 500

§ 14. COMMISSIONER OF IMMIGRATION FOR PRINTING, &c.] There is hereby appropriated for the various purposes embraced in Section 11, Chapter sixty-six, Laws of 1885, the same relating to the general printing, publication and expense fund of the office of the Commissioner of Immigration, the sum of seven thousand dollars for the year ending December 31st, 1889. And the sum of seven thousand dollars for the year ending December 31st, 1890, to be paid out of any funds belonging to the Territory not otherwise appropriated.

§ 15. ARTESIAN WELL AT JAMESTOWN HOSPITAL.] There is hereby appropriated for the purpose of sinking an artesian well for the North Dakota Hospital for Insane, at Jamestown, Dakota Territory, the sum of seven thousand dollars, or so much thereof as may be necessary; provided that the contract for sinking said well shall specify that no money shall be paid therefor from this appropriation until the trustees of said institution shall satisfy the Auditor of the Territory, that said well is fully completed and a flow of water sufficient for the needs of the institution obtained.

§ 16. HOW DISBURSED.] The funds hereby appropriated for the maintenance of the penitentiaries at Sioux Falls and Bismarck, shall be disbursed by the Boards of Directors thereof, under such regulations as may be prescribed by the Governor and Auditor of the Territory, upon presentation of the original bills and vouchers.

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

COUNCIL CHAMBER,  
BISMARCK, D. T., March 8th, 1889. }

I hereby certify that the within act together with the objections of his Excellency, Governor Louis K. Church, was returned to the Council, the House in which it originated on the 7th day of March, 1889. That the objections of the Governor were read at length and entered upon the Journal, that thereupon the said bill was laid over for consideration until March 8th, 1889, and upon that day the matter coming up for consideration the question was put, "Shall this bill pass, the objections of the Governor to the contrary notwithstanding?" The roll was called and the bill 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.

HOUSE OF REPRESENTATIVES,  
BISMARCK, Dakota, March 8th, 1889. }

I hereby certify that the within act together with the objections of his Excellency, Governor Louis K. Church, was received by the House from the Council, that being the House in which it originated on the 8th day of March, 1889. That the objections of the Governor were read at length and entered upon the Journal; that thereupon the said bill came before the House for consideration and the question was put, "Shall this bill pass, the objections of the Governor to the contrary notwithstanding?" The roll was called and the bill did pass, more than two-thirds of the members present and voting, voting in the affirmative.

Attest: JOHN G. HAMILTON,  
Chief Clerk.

H. H. KEITH,  
Speaker of the House.

## CHAPTER 10.

### UNUSED BALANCES RE-APPROPRIATED TO THE NORTH DAKOTA UNIVERSITY.

AN ACT, Entitled an Act to Re-appropriate Unused Balances of the University of North Dakota.

WHEREAS, The report of the Auditor of the Territory shows certain balances to the credit of the teachers fund of the University of North Dakota on the 12th day of March, A. D. 1887, which balances were taken into consideration by the Regents of said University when the estimates were made, and an appropriation asked for at the 17th Session of the Legislative Assembly; and whereas, The Territorial Auditor decides that the said balances are not available for the current expenses for the two years ending March 12th, 1889, consequently, the appropriation of 1887, having been exhausted, there are no funds on hand to pay the salaries of the Professors and Teachers, and other expenses for the months of January, February and March, A. D. 1889; therefore

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

§ 1. RE-APPROPRIATION FOR SALARIES.] That there is hereby re-appropriated out of the unused balances to the credit of the several funds of the University of North Dakota, as shown by the records in the office of the Territorial Auditor on March 12th, 1887, so much

of such funds as shall be necessary to pay the salaries and other expenses of said University for the months of January, February, 1889, and until the funds for maintenance, appropriated at the present session shall be available for such purposes, and the auditor is hereby instructed to audit vouchers and draw his warrant upon said funds for the payment of the same.

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

COUNCIL CHAMBER.  
BISMARCK, D. T., March 8, 1889. }

I hereby certify that the within act, together with the objections of his Excellency, Governor Louis K. Church, was returned to the Council, the House in which it originated, on the — day of March, 1889. That the objections of the Governor were read at length and entered upon the journal, that thereupon the said bill was laid over for consideration, until March 8th, 1889, and upon that day the matter coming up for consideration, the question was put, "Shall this bill pass, the objections of the Governor to the contrary, notwithstanding?" The roll was called and the bill 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.

HOUSE OF REPRESENTATIVES,  
BISMARCK, Dakota, March 8, 1889. }

I hereby certify that the within Act, together with the objections of his Excellency, Governor Louis K. Church was received by the House from the Council, that being the House in which it originated, on the 8th day of March, 1889. That the objections of the Governor were read at length and entered upon the journal; that thereupon the said bill came before the House for consideration and the question was put, "Shall this bill pass, the objections of the Governor to the contrary, notwithstanding." The roll was called and the bill did pass, more than two-thirds of the members present and voting, voting in the affirmative.

Attest: JNO. G. HAMILTON,  
Chief Clerk.

H. H. KEITH,  
Speaker of the House

## CHAPTER 11.

### FOR EXPENSES OF VETERINARIAN INVESTIGATION BY THE LEGISLATURE.

A JOINT RESOLUTION, Providing for an Appropriation for the Payment of Witnesses and other Expenses in the Investigation of the Conduct and Management of the Office of Territorial Veterinarian.

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

§ 1. APPROPRIATION.] That there is hereby appropriated out of the general fund of this Territory not otherwise appropriated the sum of \$400 or as much thereof as may be necessary to pay the expenses of the investigation into the conduct and management of the office of Territorial Veterinarian.

§ 2. EFFECT—WHEN.] This act shall take effect and be in force immediately.

Approved, March 7, 1889.

## CHAPTER 12.

### EXPENSES OF CHIEF CLERKS OF HOUSE OF REPRESENTATIVES AND COUNCIL IN THE SEVENTEENTH SESSION.

#### A JOINT RESOLUTION To Reimburse Legislative Officers for Certain Expenses.

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

That the sum of eighty-eight dollars is hereby appropriated out of any fund in the Territorial Treasury to compensate W. G. Eakins for expenses incurred and services rendered in assisting as Chief Clerk of the House of Representatives of the Seventeenth Session, in the organization thereof at its present session as required by sections fourteen and fifteen of chapter 2 of the Political Code.

There is also appropriated the sum of eighty-six dollars to reimburse for expenses and to pay for similar services of T. A. Kingsbury at the organization of the council at its present session.

Approved, February 12, 1889.

## CHAPTER 13.

### TO PAY WITNESS FEES IN INVESTIGATION OF JAMESTOWN HOSPITAL.

#### JOINT RESOLUTION.

WHEREAS, in the investigation of the affairs and the condition of the Hospital for the Insane at Jamestown, the joint committee appointed from the Council and the House have found it necessary to procure the attendance of Mrs. Julia R. Schumaker and Miss Bertha Kinney from Duluth, Minnesota, and also of Fred. J. Clippert from Minneapolis, Minnesota; and, *Whereas*, the aforesaid witnesses have traveled to and from the said places to the City of Bismarck in attendance as witnesses upon said investigation in behalf of the Territory, *Therefore*, be it resolved by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION.] That the following sums are hereby appropriated out of any funds of the Territorial Treasury not otherwise appropriated, for the persons herein designated: For Fred. J.

Clippert, mileage from Minneapolis and return, balance on mileage outside the Territory, \$26.40.

For Mrs. Julia R. Schumaker, mileage from Duluth to Bismarck and return, balance on mileage outside the Territory, \$25.10.

For Miss Bertha Kinney, mileage from Duluth to Bismarck and return, balance on mileage outside the Territory, \$25.10.

§ 2. ON ORDER OF COMMITTEE.] The Territorial Treasurer shall pay the aforesaid amounts on the order of the said committee duly approved by the Chairman thereof.

§ 3. EFFECT—WHEN.] This resolution shall take effect immediately on its passage.

Approved, February 18, 1887.

## ARTESIAN WELLS.

### CHAPTER 14.

#### TO PROVIDE FOR SINKING AND CONSTRUCTION OF WATER COURSES THEREFROM.

AN ACT To Provide for the Sinking of Artesian Wells and Construction of Water Courses therefrom.

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

§ 1. COMMISSIONER CREATED.] That for the purpose of carrying into effect the provisions of this act, the Judge of Probate of each county shall be ex-officio county Artesian Well Commissioner, which office is hereby created.

§ 2. APPLICATION BY TEN RESIDENT FREEHOLDERS.] Before the Artesian Well commissioner shall take any action toward creating or establishing any Artesian well, there shall be filed with him an application, signed by not less than ten resident free holders of any township or townships in which such Artesian well and the lands to be benefited thereby, and to be assessed therefor, may be situated giving a description of the place where said well is proposed to be located, and also a definite description of the beginning, the route, and the terminus of the water way through which it is proposed that the water from such well shall flow when the same is completed and in operation, and offering the right of way for said well and such water way through their said land, and who shall be subject to direct assessment therefor.

§ 3. APPOINTMENT OF VIEWERS—DUTIES.] At the expiration of twenty days after the filing of such application the said commissioners shall appoint three disinterested persons as viewers who shall without unnecessary delay proceed to personally examine the place where said well is to be located and the course, route and terminus of said proposed waterway, and shall ascertain whether said location of such well and establishment of said waterway is practicable and necessary and beneficial to the public welfare of the district in which the same is proposed to be located, and shall report the result of such investigations in writing to said well commissioner, having first been duly sworn to faithfully and impartially discharge their duties as such viewers. If any person upon whose land the proposed well is located or through whose land any waterway therefrom may pass, shall have filed any protest against the location of said proposed well and waterway, prior to the appointment of said viewers, they shall assess the damages, if any, which such person may sustain from the location of such well or said water ways through his land, and shall report said damages with the report of their proceedings made as heretofore provided.

§ 4. REPORT WHEN DAMAGES ASSESSED.] If a majority of the viewers assess and report damages in favor of any person protesting against the location of such well or its water ways, their report shall be presented to the board of county commissioners of said county, and if said board shall consider the proposed well of sufficient importance to the public they shall order the costs and damages to be paid out of the county treasury; but if a majority report against the claims for damages of such person he shall be liable for the costs of such appraisement.

§ 5. POWER OF COUNTY COMMISSIONERS.] If it shall be made to appear to the board of county commissioners that the damages assessed are unreasonable they may set aside such assessment, and in such case the artesian well commissioner may order another appraisement by different persons, under the same regulations as provided in the first appraisement.

§ 6. APPEAL TO DISTRICT COURT.] Any person aggrieved by any decision of any board of commissioners had under this chapter may appeal therefrom to the district court, the same as provided relating to highways, bridges and ferries. (Section 29, chapter 29, Political Code, 1217 General Laws.)

§ 7. FEE OF VIEWERS.] The viewers appointed under the provisions of section 3 of this act shall receive the sum of two dollars per day for their services as described in said section, to be paid by the persons who signed the application for said well, who shall be severally liable to pay the same.

§ 8. SURVEY AFTER FAVORABLE REPORT—PLAT FILED.] If the viewers make and file a written report with said commissioners recommending said location and route as practicable, necessary and beneficial the commissioners shall cause a survey and measurement of

the location of said well and the line of the proposed water way to be made by the county surveyor, and a plat thereof shall be filed in the office of the register of deeds of said county, and be subject to public inspection, and shall show the location of the well and the lines and route of the water way therefrom.

§ 9. ORDER OF LOCATION BY COMMISSIONER—DAMAGES.] Upon the filing of the plat and the minutes of said survey as provided in said section 5, the said commissioner shall make an order in writing in which he shall declare said well and said water ways therefrom to be located in accordance with said plat and survey; *Provided*, That in cases where damages have been appraised and assessed, the same shall first be paid to the person entitled thereto, or paid into the county treasury for their use, before such lands shall be actually taken.

§ 10. RAILWAY'S CONTRIBUTION TO WATER WAY—PENALTY—COLLECTION.] Whenever it is necessary to construct a water way from any artesian well across the right of way or road bed of any railroad company it shall be the duty of the railroad, when notified by the commissioners so to do, to make and maintain the necessary opening through said road bed, and to build and maintain a suitable culvert. Notice in writing to make such opening and to construct such culvert may be served on such company as provided in the service of summons, at least thirty days before such railroad company shall become liable.

In case such railroad company shall refuse or neglect to comply with the provisions of this section, it shall be liable to a penalty of ten dollars for each day's refusal or neglect to make such opening and construct such culvert. The district attorney of the county in which such railroad company shall have refused or neglected to comply with the provisions of this section, shall upon complaint being made by the artesian well commissioner bring suit to collect such penalty or fines, and it shall be his duty to prosecute the same to a final determination in any court having competent jurisdiction.

§ 11. DUTY OF ROAD OVERSEERS, ETC.] All that part of such artesian well or artesian well water course, which is laid and constructed within the limits of or across any public highway shall be under the jurisdiction of the overseer of public highways or road supervisors, and it shall be his duty to keep the same open and free from all obstructions, and when any highway is subsequently constructed along or across such artesian well water way then so much thereof as shall come within the limits of such highway shall also be kept open and free from obstructions as above provided.

§ 12. NAME OF WELL.] In his order locating any well under the provisions of this act the artesian well commissioner shall give the same a name by which it shall be known and recorded.

§ 13. ADVERTISE FOR BIDS FOR CONSTRUCTION—CONTRACT—SECURITY.] After making said order locating said well and the water ways thereof, the artesian well commissioner shall proceed to

advertise for bids for contracts for sinking or making such well, and constructing said water ways. He shall give not less than sixty days notice of the time and place where such bids may be offered and opened, by causing a notice thereof to be published, not less than eight weekly insertions, in the official paper of said county, such bids shall be filed with the county clerk of said county by the parties making the same and shall be taken subject to the approval of the board of county commissioners of said county. No contract made by the artesian well commissioner shall be valid unless approved by the board of county commissioners of such county, and their approval endorsed thereon by the chairman of said board.

The artesian well commissioner shall contract with the lowest responsible bidder giving adequate security for the performance of the work.

Such security shall cover the completion of the job in the manner and within the time fixed in the contract, and the amount thereof shall be fixed by said artesian well commissioner. Said commissioner shall reserve the right to reject any and all bids and may adjourn the time for receiving such bids from time to time, by publishing a notice of such adjournment but not in all more than sixty days from, and after the time named in the first advertisement, for receiving such bids. The contract for sinking the well may be separate from the contract for constructing the water ways and may be let to different persons. Whenever any such artesian well shall have been fully completed and final report thereof made by the well commissioner, to the board of county commissioners, the said board shall turn over the control and management of said well and appurtenances to the board of supervisors of the township wherein said well is situated.

§ 14. BOARD OF ASSESSMENT—MEETINGS.] Immediately after making his order locating said well, the artesian well commissioner shall notify the chairman of the board of county commissioners and the county treasurer of said county, who shall together with said well commissioner constitute a board of assessment herein. The county clerk of said county shall be the clerk of said board of assessment. The members of said board shall meet within twenty days after receiving said notice, and may adjourn from day to day until their duties are performed as hereinafter set forth.

§ 15. MODE OF ASSESSMENT AND APPORTIONMENT—TAX COLLECTION.] The said board of assessment shall make an estimate of the costs of constructing said artesian well and the said water ways, for the purpose of raising the funds necessary for the construction of said well. They shall have power to apportion the costs thereof as follows:

1. They shall create a county fund to be known as the Artesian Well Fund, and may levy an assessment upon all taxable property in said county, not exceeding two mills on the dollar, and the basis of value upon which the annual levy of the current or preceding

year was made; *Provided*, That not more than one-tenth of the cost of any artesian well or water ways therefrom, shall be paid out of said fund, and the amount so paid shall be applied to the payment of the expenses and per diem of the well commissioners, the viewers, surveyors, members of the board of assessment, damages for right of way and other like incidental expenses.

2. They shall determine what portion of the costs of said well and its water ways shall be paid by each of the townships in which said well or said water courses therefrom, are situated; *Provided*, That in no case shall the amount apportioned to any one township exceed one-fourth of the estimated cost of such well and water ways, and the county clerk shall present a statement of such amount to the respective clerks of such townships if organized; and said board of assessment shall establish and determine the rate of assessment necessary in such townships to raise the amount so apportioned to such townships. It shall then be the duty of the officers of such townships, who have similar duties to perform, in other matters of township revenue to levy, and they are hereby empowered to levy an assessment upon the taxable property of said township, not exceeding the rate fixed by the board of assessment for such township, which shall be placed upon the tax list under the head of "General township tax for Artesian Well purposes," and collected as other township taxes are collected, and shall be held by the county treasurer when collected as a distinct fund to be disbursed as hereinafter provided, to pay for constructing such well.

3. In addition to the foregoing general township and county assessments, the said board of assessment shall also make a special assessment against each piece and parcel of land directly benefitted by said well and said water courses, carefully adjusting the per cent. and amount of such assessments with reference to the relative distance of such lands from the well itself, and the water courses, and the amounts so apportioned shall be levied as a special tax upon said land, and shall be placed upon the tax list by the county clerk or auditor under the head of "Direct tax for Artesian well," and shall be paid into the county treasury as other taxes, and kept by said treasurer in a special fund to pay for the cost of constructing said well and said water ways; said assessment shall be for a sufficient amount with the general county and township tax aforesaid to pay for said well and water ways.

§ 16. ANNUAL INSTALLMENTS.] Said board of assessment may provide that the entire amount necessary to pay for the construction of said well and water courses, be levied and collected as above in one year, or they may divide the same into two, three, four or five equal installments, one of which shall be collected the first year, and one installment each year following, provided, that the portion designated as county and township tax shall all be collected the first year.

§ 17. REVIEW OF ASSESSMENT—APPEAL.] The owner of any lands directly assessed for the construction of any artesian well under the

provisions of this act, who may feel aggrieved by such assessment, may at any time before such tax becomes delinquent, appear before the board of county commissioners of the county in which such assessment was made, and ask to have said assessment, as to his property, reviewed, and said board shall have the right to raise or lower his assessment, so as to make it just and reasonable; and an appeal may be taken from the action of said board as in other cases.

§ 18. DISQUALIFICATION BY INTEREST—VACANCY—HOW FILLED—No member of any county board, and no county officer, whose lands have been directly assessed under this act, shall act on the board of assessment. In case any member of such board is so disqualified, his place shall be filled by calling in the sheriff of said county, or if said sheriff is so disqualified, the county coroner may act on said board.

§ 19. BENEFITS—PRINCIPLE OF ASSESSMENT.] All assessments of benefits under the provisions of this act shall be upon the principle of benefits derived. All descriptions of land under the provisions of this act shall be made by giving the legal subdivision thereof whenever practicable and when the tract of land which is to be benefitted or affected by such well is less than such legal subdivision, it may be described by designation of the lot or other boundaries, or in some way by which it may be known.

§ 20. ADDITIONAL ASSESSMENT.] Whenever the amount assessed for the construction of any well, shall not be sufficient to complete the same, and to pay all the costs and incidental expenses, a further assessment shall be made to meet the deficit or additional expense. Such further assessment, shall be apportioned, assessed, levied and collected as provided in the first instance, and on the same percentage, and shall be collected in one year.

§ 21. ENROLLMENT OF TAX BY CLERK.] It shall be the duty of the county clerk to spread on his roll the total amount of all the well taxes determined upon by the board of assessment, to be assessed upon any township at large, as a part of the township tax for the year and he shall also spread upon said roll separately, and immediately following the other descriptions, all tracts or parcels of lands specially assessed for benefits, and shall place opposite each description the amount of taxes apportioned thereon for such benefits. All wells shall be entered separately, naming each well.

§ 22. COLLECTION—MODE OF.] All taxes assessed under the provisions of this act shall be collected in the same manner as territorial and other general taxes are collected, and collecting officers are hereby vested with the same power and authority in the collection of such taxes as are, or may be conferred by law, for collecting general taxes. All taxes levied under the provisions of this act, with all lawful costs, interest and charges, shall be and remain a perpetual lien upon the lands upon which they are assessed, and a personal claim against the owner or owners of such lands until they are paid.

§ 23. SALE FOR DELINQUENCY.] If the taxes levied for the construction of any well are not paid to the county treasurer as provided

herein, he shall proceed to sell the said lands for such taxes, at the same time and in the same manner in every respect, as in the case of any other tax and with like effect.

§ 24. COMPENSATION OF OFFICERS.] The artesian well commissioner and the members of the board of assessment herein provided for, shall receive for their services a sum not to exceed three dollars per day for each day actually and necessarily spent by them in the discharge of their respective duties as hereinbefore described. All expenses, except on contract for constructing said well or such water courses, shall be paid out of the general fund of the county on the order of the board of county commissioners, as other claims against the county are paid; said fund to be reimbursed, out of the first money collected under the provisions of subdivision 1 of section 15 of this act.

§ 25. BLANKS DRAWN BY ATTORNEY GENERAL.] It shall be the duty of the attorney general to draft a complete set of all the blank forms that may be required under this act, and county clerks are authorized, and it shall be their duty to procure at the expense of their respective counties, the necessary books and blanks to carry out the provisions of this act.

§ 26. MODE OF PAYMENT TO CONTRACTOR.] No payment shall be made to any person contracting to construct or sink an artesian well or any water course therefrom under the provisions of this act except as follows: One-third of the amount to be paid for the entire performance of the contract may be paid when one-third of said work is done; one third of said amount may be paid when two-thirds of said work is completed; but the balance of said amount shall not be paid until said contract has been fully completed and the work accepted and approved by the artesian well commissioner. The said payments shall be made in the following manner: The contractor shall make a statement of the amount claimed by him to be due under his contract, and if the same is correct it shall be approved by the artesian well commissioner whose duty it shall be to carefully examine the work done under said contract; said claim so approved, shall be presented to the board of county commissioners, and if correct they shall issue county orders or warrants upon the well funds of each particular well, naming it; *Provided*, That if the assessment of taxes for such well has been divided into installments as provided in this act said board shall not issue orders payable in any one year for a larger amount than the said installment for that year, but shall draw as near as may be, to the exact amount of such installment. When such orders or warrants are presented to the county treasurer for payment, if he has not yet received sufficient funds to pay the same then such orders may be endorsed and registered as other county warrants under the general law, and shall bear the same rate of interest as other warrants.

§ 27. DESCRIPTION OF ASSESSED LANDS FILED WITH REGISTER—LIEN.] The clerk of the board of assessment provided for in this act,

shall make a statement of the direct assessment for benefits made against the several pieces and parcels of lands, giving a description of such lands, the amount of the direct assessment against each piece or parcel, the name of the well for which the assessment was made, and shall file the same with the register of deeds of said county and the same shall thereafter be a lien upon said lands to secure the payment of any orders or warrants issued as herein provided; which lien may be foreclosed by the holder of such warrants or orders, and shall be prior to all other liens except for taxes.

§ 28. WATER COURSE UNOBSTRUCTED, DUTY OF OVERSEER OF HIGHWAYS.] It is hereby made the duty of every person through whose land any water course constructed under this act may pass to keep the same open and unobstructed. On failure so to do, any person aggrieved may complain to the Overseer of Highways in the district where such water course is situated, and such overseer shall have the authority, and it is hereby made his duty, to call out the persons residing in said district who are liable for road tax, and open said waterway, and the expense thereof shall be entered by the County Clerk as a tax against said land.

§ 29. REPEAL.] All laws heretofore enacted on the subject of Artesian wells are hereby repealed; provided, that all proceedings heretofore had and all contracts made under the provisions of existing laws on the subject of Artesian wells, are hereby declared to be valid and may be continued and completed under the provisions of this act.

§ 30. EFFECT WHEN.] This act shall take effect on the 1st day of July, 1889.

Approved March 8th, 1889.

## ASSESSORS.

### CHAPTER 15.

#### DUTIES AS COMPILERS OF STATISTICS.

AN ACT, Providing for the Collection and Compilation of the Statistics of the Territory of Dakota.

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

§ 1. STATEMENT REQUIRED—RETURN.] That it shall be the duty of the several county, township, town and city Assessors of the Territory of Dakota, at the time of taking lists of property for taxation in each year; to require each person, company and corporation in his county, town, city or ward, to make a statistical statement of facts relating to agriculture, horticulture, manufactures, mining, etc., in the manner provided for in this act and specified in the instructions which shall be given by the Territorial Statistician, and the said Assessor shall make such other statistical returns, not herein mentioned as may be required by the Territorial Statistician, of and through the County Clerks or Auditors; and each Assessor shall make a return of such statements in tabulated form to the County Clerk or Auditor of his county at the time of returning the list of property for taxation.

§ 2. CONTENTS.] The statistical statement mentioned in the foregoing section shall contain, among other things answers properly classified, to the following questions:

AGRICULTURE.] The number of farms, the number of acres under fence; the number of acres cultivated (or to be cultivated) in each crop for the current year, together with the acreage and product for the year immediately preceding of wheat, corn, oats, rye, buckwheat, barley, flax, potatoes, beans, peas, sorghum, cultivated and wild hay, hops and other farm produce.

STOCK.] The number of mules, horses, milch cows and other cattle, sheep and hogs subdivided into the breeds or classes to which they respectively belong; the number of pounds of wool clipped, and the dairy products for the current year.

**ARBORCULTURE.]** The number and kind of trees growing in cultivated or planted forests; the number of nurseries and the acreage of each; number and kind of fruit trees, berries, vines, etc., and the orchard products for the preceding year.

**MANUFACTORIES.]** The number and kind of manufactories and the amount of capital invested; the number of hands employed; the wages paid to employes; the amount of raw material used and the total product and its value for the preceding year.

**MINING.]** The number and kind of mines operated; the amount of capital invested; the number of hands employed; and the wages paid to employes; the total amount of material mined, and its value for the preceding year.

**POPULATION.]** The male and female population of each county, township, town and city and the number of blind, deaf and dumb, insane, and idiotic in each assessing district.

§ 3. **PERSONAL VISIT REQUIRED.]** Each Assessor shall perform the service required of him by a personal visit to each dwelling house and to each family in his township or city, and shall ascertain by enquiries made of some member of each family, if anyone can be found capable of giving the information, but if not, then to the agents of such family, and if the agents cannot be found, then he shall obtain the information specified in this act from the most reliable source; and he shall also visit, personally, the farms, mills, shops, mines, and other places in his district respecting which information is required, as specified on the blanks furnished by the Territorial Statistician, and shall obtain all such information from the best and most reliable sources.

§ 4. **BLANKS FURNISHED BY TERRITORY—RETURN TO TERRITORIAL STATISTICIAN.]** The County Clerk or Auditor of each county shall furnish the county, township, town and city Assessors of his county such blanks as may be necessary for taking the aforesaid statements, which said blanks shall be furnished by the Territorial Statistician to the County Clerks or Auditors, together with printed instructions defining and explaining the duties of the Assessor in collecting the statistics required by this act, and the County Clerks or Auditors shall, within thirty days after the aforesaid statements are returned to them by the Assessors, make out and forward a tabular statement thereof, by assessing districts, properly verified, to the Territorial Statistician.

§ 5. **TAXES AND COMPENSATION.]** The services herein required of the several assessors of the Territory shall be performed at the same time that they perform their services under the general assessment laws and in connection therewith. They shall not be allowed for such services separately, but for the time employed in collecting the statistical information herein provided for, and the taking of the general assessment they shall be allowed and paid as for one and the same service, and the county, township, town and city Assessors shall be paid in the same manner and shall receive the same pro rata per

diem for the discharge of the services required by this act as is now paid to them for taking a list of property for assessment purposes. Provided, that an Assessor shall receive no part of any pay for his services as Assessor, except on the certificate of the County Clerk or Auditor that he has fully complied with the requirements of this act.

§ 6. MISDEMEANOR—PENALTY.] Any county, township, town, or city Assessor, or County Clerk or Auditor, who shall willfully neglect or refuse, in whole or in part, to perform the duties required in this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than twenty dollars nor more than one hundred dollars.

§ 7. TERRITORIAL STATISTICIAN DUTIES.] The Territorial Statistician is hereby required to carry into effect the provisions of this act relating to the collection and compilation annually, of the statistical data herein described and he shall cause the returns, when received, to be arranged, classified and published in the best and most convenient manner in order to display the annual growth and development of each county and of the Territory.

§ 8. EXPENSES PAID BY TERRITORY.] The expense incurred in procuring and furnishing the necessary blanks, stationery and postage in compiling and publishing this statistical information as required by Section seven (7), of this act, shall be paid by the Territorial Treasurer on the warrant of the Territorial Auditor, which shall be issued on presentation of the sworn expense account of the Territorial Statistician when approved by the Governor.

§ 9. REPEAL.] Chapter one hundred and thirty-seven (137), laws of eighteen hundred and eighty-five (1885), the same being an act providing for the collection of statistics, shall be and is hereby repealed.

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

Approved, March 7, 1889.

## ATTORNEY FEES.

### CHAPTER 16.

#### LIMITATION IN NOTES, BONDS, MORTGAGES, ETC.

AN ACT to Declare certain Provisions for Attorney's Fee Void, and to Provide a Reasonable Attorney's Fee in such cases.

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

§ 1. CONTRACT DECLARED VOID.] That any provision contained in any note, bond, mortgage or other evidence of debt for the payment of an attorney fee in case of default in payment or of proceedings had to collect such note, bond or evidence of debt or to foreclose such mortgage is hereby declared to be against public policy and void.

§ 2. FEES PRESCRIBED.] In all actions commenced and prosecuted to judgment in the district court for the foreclosure of any chattel or real estate mortgage the plaintiff in such action shall be allowed an attorney's fee as follows: On the first one hundred dollars or under of such judgment, ten dollars, and three per cent on each dollar of judgment in excess of one hundred dollars, and not exceeding five hundred dollars; *Provided*, That the attorney fee in no such case shall exceed the sum of twenty-five dollars, unless the court shall by order allow an additional sum, when issue has been joined in such action, and provided further, that if the plaintiff shall fail to recover in such action, the defendant in such action shall be allowed an attorney fee not exceeding twenty-five dollars.

§ 3. FEES IN FORECLOSURES.] In all cases of foreclosure of chattel or real estate mortgages by advertisement and sale, if such foreclosure be made by an attorney at law who is a resident of this territory and admitted to practice law in the courts of this territory, there shall be allowed an attorney fee as follows: For foreclosing a chattel mortgage by advertisement and sale, five dollars, and no more; for foreclosing a mortgage on real estate by advertisement and sale, ten dollars and no more.

§ 4. REPEAL.] All acts and parts of acts conflicting with this act are hereby repealed.

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

Approved, March 7, 1889.

## ATTORNEY GENERAL.

### CHAPTER 17.

#### MAY APPOINT AN ASSISTANT.

AN ACT, To Authorize the Attorney General to Appoint an Assistant Attorney General.

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

§ 1. ASSISTANT—HOW APPOINTED.] That the Attorney General may appoint an Assistant Attorney General—whose appointment shall be in writing and filed in the office of the Governor. That such Assistant Attorney General shall have the same powers and authority as the Attorney General.

§ 2. OATH OF ASSISTANT.] That the Assistant Attorney General shall, before entering upon the duties of his office, take and subscribe upon his appointment an oath that he will support the constitution of the United States and the act organizing this Territory, and that he will faithfully and impartially to the best of his ability and knowledge perform all the duties of the office of the Attorney General, as provided by the conditions of the bond of the Attorney General. That the Assistant Attorney General shall be paid by the Attorney General out of his salary, and receive no other compensation whatever.

Approved, February 19, 1889.

## AUDITOR.

## CHAPTER 18.

## AUTHORIZED TO AUDIT A CLAIM.

AN ACT Authorizing the Territorial Auditor to Audit a Claim of George F. Ingram against the Territory.

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

§ 1. AUDIT AND WARRANT AUTHORIZED.] That the Territorial Auditor be and is hereby authorized and empowered to audit and issue a Territorial warrant to George F. Ingram, agent for the Territory of Dakota, for the sum of two hundred and forty-one (\$241.00) dollars, and the Territorial Treasurer is hereby directed to pay such warrant from the general fund of the territory.

§ 2. EFFECT—WHEN.] This act shall take effect from and after its passage and approval.

HOUSE OF REPRESENTATIVES,  
BISMARCK, Dakota, March 6, 1889. }

I hereby certify that on the 6th day of March, 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 the 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 question put by the Speaker, "Shall this bill pass, the objections of the Governor to the contrary, notwithstanding?" The roll was called and the bill did pass, more than two-thirds of the members present and voting, voting in the affirmative.

Attest: JNO. G. HAMILTON,  
Chief Clerk.

H. H. KEITH,  
Speaker of the House.

COUNCIL CHAMBER,  
BISMARCK, D. T., March 6, 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 6th day of March, A. D. 1889. That the objections of the Governor were read at length and entered upon 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 bill 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.

## CHAPTER 19.

AN ACT Authorizing the Territorial Auditor to Audit a Claim of John Sundback Against the Territory.

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

§ 1. AUTHORITY TO AUDIT AND ISSUE WARRANT.] That the Territorial Auditor be and is hereby authorized and empowered to audit and issue a Territorial warrant to John Sundback, as Sheriff of Minnehaha county, for the sum of \$425.45, and the Territorial Treasurer is hereby directed to pay such warrant from the general fund of the Territory.

§ 2. EFFECT WHEN.] This act shall take effect from and after its passage and approval.

Approved, March 8th, 1889.

## CHAPTER 20.

## AUTHORIZED TO AUDIT CLAIMS.

AN ACT, To Authorize the Territorial Auditor to Audit and Pay certain claims.

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

§ 1. AUDIT CERTAIN CLAIMS.] The Territorial Auditor is hereby authorized to audit the certain claims of J. W. Sheridan and the Northwest Grain and Fuel company against the Territory of Dakota, for coal furnished the North Dakota Hospital for the Insane, at Jamestown, and to pay the amount found to be justly due by his warrant upon the Territorial Treasurer out of any fund or funds provided by Council Bill No. 314, for the support or maintenance of said institution. Provided, that said claims shall be presented and audited within thirty days from the passage of this act.

§ 2. EFFECT WHEN.] This act shall be in force and effect immediately upon its passage and approval.

§ 3. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved, March 8, 1889.

## BAIL.

### CHAPTER 21.

#### COSTS OF JUSTIFICATION.

**AN ACT, To Amend Section 165, of the Code of Civil Procedure.**

*Be it Enacted by the Legislative Assembly of the Territory of Dakota.*

§ 1. EXAMINATION OF BAIL.] That Section one hundred and sixty-five of Code of Civil Procedure, be and the same is hereby amended by adding thereto the following words: "The costs of the justification shall be paid by the party offering the bail, if same is found not sufficient, but if sufficient, then the party excepting shall pay the costs of the justification." The costs of such justification shall be returned by such officer with his report of the same, and shall be taxed by the court in which the action is pending, as other costs are taxed.

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

Approved, February 28, 1889.

## BOARDS OF HEALTH.

### CHAPTER 22.

AN ACT to Amend Section One of Chapter Sixty-three of the Laws of the 16th Legislative Assembly, entitled "An Act Establishing Territorial and County Boards of Health and Providing for the Protection of the Health of Persons and Animals."

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

§ 1. AMENDMENT.] That section 1 of chapter sixty-three of the Laws of the Sixteenth Legislative Assembly be and the same is amended to read as follows, viz:

§ 1. That there is hereby established a Territorial Board of Health, of the Territory of Dakota composed of a President, Vice-president and Superintendent of public health. The Attorney General of said Territory shall be ex-officio, president of said board. The Governor shall appoint some suitable person, a resident of this territory, vice-president, and he shall also appoint by and with the advice and consent of the Council said superintendent of public health, who shall be learned in medicine, a graduate of some regularly chartered medical college, authorized by law to grant diplomas, and a resident of this territory. And the several persons thus appointed shall hold their offices for two years and until their successors are elected and qualified.

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

Approved, February 11, 1889.

# CAPITOL BUILDING.

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## CHAPTER 23.

### APPROPRIATION FOR FREIGHT.

AN ACT to Appropriate Funds to Pay Charles W. Thompson for Rebate of Freights on Material Furnished for Construction of the Capitol Building at Bismarck, D. T., as per finding of Board of Arbitration in case of Thompson vs. Territory of Dakota.

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

§ 1. POWER OF TERRITORIAL AUDITOR.] The auditor of the Territory of Dakota is hereby authorized and empowered to hear, determine, and to audit a certain claim against the Territory of Dakota, and in favor of Charles W. Thompson, for rebate on freights on material furnished by said Thompson for the construction of the Capitol building at Bismarck, D. T., not exceeding the sum of \$6,032.25 and interest from date of payment to railroad company, as per finding of board of arbitration in the matter of Charles W. Thompson vs. Territory of Dakota, and the said auditor is empowered to issue his warrant upon the Territorial Treasurer for such sum as he may allow said Charles W. Thompson, and the Territorial Treasurer is hereby directed to pay the amount mentioned in such warrant, by exchanging therefor refunding warrants for the amount of the principal and interest lawfully accrued thereon at the date of such exchange. The principal of said refunding warrants shall be payable in five years after the date of the issuance thereof, and the same shall bear interest at the rate of five per centum per annum, payable semi-annually at the office of the Territorial Treasurer; but any of said refunding warrants may be redeemed if the Governor, at the time of the maturity of any installment of interest falling due, after the period of two years subsequently to the date of the issuance thereof by the payment to the lawful owner and holder of such refunding warrants, of the principal thereof, and of the interest which shall have accrued thereon prior to the date of making such redemption. After the tender by the treasurer to the holder of such refunding warrant of the amount required as aforesaid for the redemption

thereof, interest upon the principal of such refunding warrants shall cease.

The principal and interest of the said refunding warrants shall be paid out of any money in the treasury not otherwise appropriated at the respective dates of the maturity of the said principal and interest; *Provided*, That in case the Territory shall hereafter be divided into two territories or states, that territory or state in which the city of Bismarck shall be situated shall be exclusively liable for the payment of the interest and principal of the said refunding warrants.

§ 2. IN EFFECT—WHEN.] That this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1889.

## CHAPTER 24.

### PAYMENT OF OUTSTANDING WARRANTS.

AN ACT, to Provide for the Refunding of the Outstanding Territorial Warrants Drawn on the Capitol Building Fund.

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

§ 1. PAYMENT OF WARRANTS.] The outstanding warrants issued by the Auditor of the Territory of Dakota, under the provisions of Chapter 104, of the General Laws of 1883, not exceeding the sum of (\$53,158.83), shall be paid by the Territorial Treasurer by exchanging therefor refunding warrants for the amount of the principal and interest lawfully accrued thereon at the date of such exchange. The principal of such refunding warrants shall be payable in five years after the date of the issuance thereof, and the same shall bear interest at the rate of five per centum per annum, payable semi-annually at the office of the Territorial Treasurer. The principal and interest of the said refunding warrants shall be paid out of any money in the treasury not otherwise appropriated at the respective dates of the maturity of the said principal and interest, provided, that if the Territory of Dakota shall be divided into two territories or states, that territory or state in which Bismarck shall be situated shall be exclusively liable for the payment of the interest and principal of the said refunding warrants.

§ 2. NOTICE TO HOLDERS.] It shall be the duty of the Territorial Treasurer to immediately notify the holder or holders of said warrants to present the same for payment at the Treasurer's office on or before the first day of April, 1889, after which date, interest shall cease on

the same. And, in case the holders of such warrants are not known to the Treasurer, and their residence cannot be ascertained, so as to reach the same by a direct notice, then the above notice properly dated and signed by the said Treasurer, shall be published in a daily newspaper of general circulation in the Territory for ten days prior to April 1st, 1889. Said warrants shall be cancelled by the Treasurer when paid, by writing across the face thereof, the date of payment.

§ 3. REGISTER OF WARRANTS.] It shall be the duty of the said Treasurer to keep a register of said refunding warrants in a book to be kept for that purpose, in which register he shall enter the number of each of said warrants, its date, date of maturity, amount, rate of interest and to whom payable.

§ 4. FUNDING WARRANTS.] The said Treasurer is hereby authorized to issue funding warrants as herein provided to John P. Hoagland in the sum of \$2,085.00; to O. H. Beal & Co., in the sum of \$129.04; to the Weaver Lumber Company in the sum of \$500.00, in payment of their respective bills for fixtures, lumber and other building material furnished, and labor performed in the construction of the Capitol building at Bismarck, Dakota. The Treasurer is also authorized to add to each of said amounts the interest lawfully due thereon from the date when the material was furnished, and labor performed to the date of the issuance of said warrants.

§ 5. EFFECT WHEN.] This act shall take effect immediately.  
Approved, March 8, 1889.

## CHAPTER 25.

### FUEL FOR THE CAPITOL.

AN ACT to Provide Fuel for the Capitol Building.

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

§ 1. SECRETARY PROVIDE FUEL.] That the secretary of the Territory be, and he is hereby instructed, to provide the necessary fuel for heating the Capitol building and a sufficient sum is hereby appropriated out of any money in the Territorial Treasury not otherwise appropriated for the payment thereof; *Provided*, the amount appropriated for this purpose by the general government is found insufficient.

§ 2. AUDIT BILLS.] That the auditor is hereby instructed to audit bills for fuel, contracted up to this time for said purpose, and to issue his warrant on the Territorial Treasurer in payment of the amount found due.

Approved, February 2, 1889.

## CHATTEL MORTGAGES.

### CHAPTER 26.

#### PUBLICATION OF NOTICE OF SALE.

AN ACT, to give Publicity to Chattel Mortgage Sales.

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

§ 1. FORECLOSURE.] The foreclosure of Chattel Mortgages otherwise than by action, shall be in accordance with this act, and any foreclosure sale of chattels contrary to the provisions thereof shall be invalid and no title to chattels shall pass thereby.

§ 2. WHAT NOTICE TO CONTAIN.] The notice of sale shall contain the names of the Mortgagor and Mortgagee, the name of the person by whom the mortgage is owned, the date of the instrument, the amount due thereon, the nature of the default, a description of the property to be sold in the language of the Mortgage, and the place of sale.

§ 3. PUBLIC PLACES.] The boards of county commissioners of the several counties, shall at their regular quarterly meetings in April and every year thereafter, designate not less than three public places in their respective counties, which shall be the only market places for the sale of chattels under the provisions of this act. Provided, that the Mortgagor may at the time of seizure designate by written notice delivered to the Mortgagee or his agent, any other place in the county as the place of sale, and provided further, that growing or harvested crops, grain in bulk, or buildings may be sold under the provisions of this act, without moving the same to the place of sale.

§ 4. NOTICE PUBLISHED—HOW.] The notice provided for in Section 2, shall be published once, and at least six days prior to the sale, in the newspaper of general circulation, printed and published nearest the place of sale in the county wherein the mortgage shall have been filed, or at the option of the Mortgagor, and in lieu of publication, the notice may be posted conspicuously, and for at least ten days in five public places in the county, provided, that the notice of sale shall be by publication, unless the Mortgagor or his agent

shall notify the Mortgagee or his representative, in writing at the time of seizure of his election to notice by posting.

§ 5. SALES—POSTPONED.] All sales under this act, shall be made between the hours of 12 o'clock M. and 4 o'clock P. M., on Saturday, within twenty days after the seizure of the property, unless the sale shall be postponed, provided, that for lack of bidders, or by request of the Mortgagor, any sale may be postponed one week by public announcement at the time of postponement. The sale shall not take place for one week following the date of publication.

§ 6. FEES.] The fee for the publication of notice under the provisions of this act, shall in no case exceed the sum of three (3) dollars. 2, The officer making the sale shall be allowed the same fees as are allowed by law for levying upon and selling personal property under execution. 3, No greater charge shall be valid for the keeping of live stock between the date of its seizure, and the date of sale than is now provided by law for the keeping of live stock when impounded. 4, The Register of Deeds shall receive for filing the report provided for in Section 7, the sum of ten cents.

§ 7. REPORT OF SALE.] Within ten (10) days after the foreclosure of any mortgage as herein provided, the person making the sale shall make out in writing a full report of all the proceedings in such foreclosure, specifying particularly, the property sold, the amount received therefor, the amount of the costs and expenses, itemized, and the disposition made by him of the proceeds of the sale, and shall file the same in the office of the Register of Deeds of the county where the mortgage is filed, which report shall be received in all courts as prima facie evidence of the facts therein recited.

§ 8. DISPOSITION OF PROCEEDS.] Out of the proceeds arising from the sale, the officer making the sale, shall pay first the costs and expenses of the foreclosure, second, shall pay the person or persons entitled thereto, the amount of the mortgage debt, and third, shall pay the balance, if any there be, to the owner of the mortgaged property.

§ 9. Any stipulation or agreement in any Chattel Mortgage, by which any provisions of this act, are waived in form, shall be inoperative and void.

§ 10. REPEAL.] All acts or parts of acts, in conflict with this act, are hereby repealed, but nothing in this act, shall be construed to prevent foreclosure by action.

§ 11. EFFECT WHEN.] This act shall take effect and be in force from and after July First, Eighteen Hundred and Eighty-Nine.

Approved, March 8th, 1889.

## CITIES.

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### CHAPTER 27.

#### ASSESSMENT ROLL.

AN ACT to Amend Chapter 142 of the Laws Passed at the 17th Session of the Legislative Assembly of the Territory of Dakota, entitled "An Act to Provide for the Collection of City Taxes in Incorporated Cities of the Territory of Dakota.

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

§ 1. ASSESSMENT ROLL.] That section one (1) of chapter 142 of the laws passed at the 17th Session of the Legislative Assembly of the Territory of Dakota, entitled "An act to provide for the collection of city taxes in Incorporated cities of the Territory of Dakota" approved March 11, 1887, be and the same is hereby amended by adding thereto after the word "assessors" in the last line thereof the following: *Provided*, That in all incorporated cities of this Territory, whether incorporated under special acts, or otherwise, not having city assessors, the assessment roll of all property subject to taxation in any such city made and equalized for county purposes shall be and constitute the assessment roll for said city and the county clerk of the county in which any such city is situated shall, as soon as said assessment roll is completed, certify to the common council of every such city within his county the aggregate amount of the valuation of the taxable property in any such city as shown by said assessment roll; and *Provided, further*, That all taxes in any such city levied before the passage and approval of this act shall be collected as now provided by law or ordinance.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved, March 2, 1889.

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CHAPTER 28.

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APPOINTMENT OF ADDITIONAL ASSESSORS.

AN ACT Authorizing the Mayor of Cities Having Five Thousand Inhabitants to Appoint One or More City Assessors.

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

§ 1. ADDITIONAL ASSESSORS.] The Mayor of any city having five thousand inhabitants, that is incorporated under the provisions of Chapter seventy-three, of the General Laws of 1887, may appoint one or two additional City Assessors; provided, the City Council shall by resolution declare their appointment necessary.

§ 2. IN EFFECT WHEN.] This act shall take effect and be in force on and after its passage and approval.

Approved, March 8th, 1889.

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## CHAPTER 29.

## FEES FOR COLLECTING TAXES.

AN ACT to Amend Section Four (4), Chapter One Hundred and Forty-Two (142) of the Session Laws of 1887, Entitled "An Act to Provide for the Collection of City Taxes in Incorporated Cities of the Territory of Dakota."

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

§ 1. TREASURER'S FEE.] That Section four (4), of Chapter one hundred and forty-two (142), of the Session Laws of 1887, be amended by adding to said section the following clause: And the said County Treasurer shall retain from such moneys collected for such city or cities, as a fee to be turned over to the county, one per cent. of all such moneys collected and no more.

§ 2. REPEAL.] All acts or parts of acts, both special and general, in conflict with this act are hereby repealed.

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

Approved, March 8th, 1889.

## CHAPTER 30.

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### SPECIAL ASSESSMENTS.

**AN ACT to Facilitate the Collection of Special Assessments in Cities, Towns or Villages.**

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

§ 1. ACTION—JUDGMENT.] Whenever any action or proceeding shall be commenced and maintained before any court or judge to prevent or restrain the collection of any special assessment, or part thereof made or levied by the municipal officers of any city, town or village, organized under and by virtue of a special act or charter, or under and by virtue of any general law of the Territory of Dakota for the improvement of its public streets by grading or paving the same, and it shall appear that the assessment was levied uniformly and at the same rate and in the same amount, upon the abutting property liable to assessment for such improvements per front foot, the true and just amount of the special assessment must be ascertained per front foot and judgment must be rendered and given therefor against the party liable for such special assessment and if the special assessment be delinquent, execution must issue forthwith for the same.

§ 2. PUBLICATION NOTICE.] In all such actions and proceedings commenced to prevent or restrain the collection of any special assessment made by the proper municipal officers of any incorporated city, town or village in accordance with the provisions of Section one, of this act where it shall appear upon trial that the person or persons seeking to avoid the payment of such special assessment, knew that the improvements were being made under a special assessment, and that the abutting property was charged with said improvements, and knowingly permitted said improvements to be made without commencing any proceedings to prevent the same, said assessment shall and is hereby declared to be legal and valid, notwithstanding the provisions of the charter or general law under which the city, town or village was incorporated, required the publication of a resolution by the municipal authorities that they deemed the improvement necessary, and its publication in a newspaper a certain number of successive weeks has not been complied with. Provided, it shall appear that said resolution was passed by said municipal authorities and published the number of times and in the newspaper required, on any day during successive calendar weeks.

§ 3. EFFECT—WHEN.] This act shall take effect and be in force on and after its passage.

Approved, March 8, 1889.

## CHAPTER 31.

### RE-ASSESSMENT OF ABUTTING PROPERTY.

AN ACT Providing for the Re-Assessment of Abutting Property for Improvement of Public Streets.

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

§ 1. RE-ASSESSMENT.] Whenever any City Council of any city whether incorporated under the general law, or by special act or charter, has heretofore upon a petition of a majority of the abutting property owners upon any street made a special assessment for the grading or paving the same and assessed the abutting property uniformly and in the same amount per front foot, and proceeded to pave or grade the street in accordance with the petition, and it shall appear that the ordinance or other proceedings in making the assessment were for any reason invalid, the City Council is hereby authorized and empowered to re-assess all the real property abutting on such improvement upon which the special assessment for the same, has not been paid upon the front foot plan in such sum as may be sufficient to pay its just proportion of the cost of such improvement.

§ 2. NOTICE.] The City Council shall by resolution declare the entire cost of the improvement for which all the abutting property was liable, with a description of the abutting property which such City Council propose to re-assess for its proportion of the cost of such improvement, also the aggregate sum they propose to assess against said property and the amount per front foot and shall state in said resolution when and where they will meet to hear any objections the abutting property owners may have to such re-assessment, which resolution shall be published two successive weeks in some newspaper published in the city.

§ 3. MODE OF ASSESSING.] At any time after the time fixed for hearing objections as provided in Section two, of this act, the City Council shall by resolution, proceed to re-assess all the abutting property, upon such improvement upon which the special assessment first made has not been paid, its just and equal share of the cost of such improvement per front foot, and shall apportion and assess to

each lot or parcel of land upon which such special assessment has not been paid its just proportion of the amount remaining unpaid per front foot, which assessment shall be and remain a lien upon the respective lots and parcels of land so assessed.

§ 4. PUBLICATION OF ROLL.] After said assessment provided for in Section three shall have been made and approved by the City Council, the City Clerk or Auditor shall forthwith make an assessment roll describing the property so assessed, with the name of the owner if known, and the amount assessed to each lot or parcel of land as approved by the City Council, and attach thereto a copy of the resolution of the City Council approving of the same, and certify that the same is correct, and shall file the same with the City Treasurer for collection. The City Treasurer shall forthwith publish said list three successive weeks, at least once in each week, in a newspaper published in said city, together with a notice that said assessments will become delinquent if the same are not paid within thirty days after the date of the first publication, together with a notice that a penalty of ten per cent. will be added thereto after they become delinquent.

§ 5. INTEREST AND COLLECTION.] All such assessments from and after becoming delinquent shall draw interest at the same rate from the date of such delinquency, as delinquent taxes under the laws of the Territory, and the City Treasurer shall proceed to collect the same, if he cannot make the tax by distress, and sale of personal property in the manner and as prescribed in Sections twenty-five to thirty-seven inclusive in Article fifteen, Chapter seventy-three, of the General Laws of 1887.

§ 6. EFFECT—WHEN.] This act shall take effect and be in force on and after its passage and approval.

Approved, March 8, 1889.

## CHAPTER 32.

### EXTENSION OF CORPORATE LIMITS.

AN ACT to Authorize Cities Having the Requisite Number of Inhabitants to Extend Their Corporate Limits.

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

§ 1. EXTENSION OF LIMITS.] Any city in the Territory of Dakota having not less than three thousand inhabitants may so extend its boundaries as to increase the territory within the corporate limits, not to exceed one-fourth its present area by a resolution of the city council, passed by two-thirds of the entire council elect, particularly

describing the land proposed to be included within the city limits, setting forth the boundaries and describing the lands platted by blocks and lots.

§ 2. PUBLICATION OF RESOLUTION.] The resolution of the city council shall be published in the official newspaper in the city for three successive weeks, and unless a written protest signed by a majority of the property owners of said proposed extension be filed with the city clerk or auditor within ten days after the last publication of such resolution, the territory described in the resolution shall be included within and become a part of the corporation of said city.

§ 3. PLAT FILED.] When the city limits of any city have been extended, as provided by this act, the mayor shall forthwith cause to be filed in the office of the register of deeds in the county wherein said city is located a plat showing the corporate limits and boundaries of the city.

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

Approved March 8th, 1887.

## CHAPTER 33.

### GENERAL INCORPORATION ACT.

AN ACT Amending Chapter Seventy-three of the General Laws of 1887, in Regard to the Incorporating of Cities.

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

§. 1. STRICKEN OUT.] That chapter seventy-three of the general laws of 1887 be amended as follows: All of section four of article two is stricken out.

§ 2. PRESIDING OFFICERS.] Section ten of article three be amended to read as follows: It shall at [the] first regular meeting after the annual election in each year, proceed to elect from one of its own members a president and vice-president, who shall hold their respective offices for the municipal year. The president of the council shall, in the absence of the mayor, be presiding officer of the council and shall, during the absence of the mayor from the city or his temporary disability, be acting mayor and shall possess all the powers of the mayor. In the absence or disability of the mayor and president of the council then the vice-president shall perform the duties of the mayor and president of the council.

§ 3. OFFICERS.] Section one of article five is amended to read as follows: There shall be elected in all cities organized under this act the following officers: A mayor, two aldermen from each ward, a city treasurer, police justice and city justice of the peace.

§ 4. TITLE AMENDED.] The title to article ten is amended to read as follows: Article ten, police justice and city justice of the peace.

§ 5. POLICE JUSTICE.] That the words "City Justice of the Peace" be stricken out wherever they occur in sections one, two and twelve in article ten, and the words "Police Justice" be inserted in lieu thereof, and that the words "City Justice" in section thirteen, article ten be stricken out and the words "Police Justice" be inserted in lieu thereof.

§ 6. JURISDICTION.] Insert after section ten in article ten the following section: Section eleven. The city justice of the peace shall have the same jurisdiction as justices of the peace within said county in all civil and criminal cases, and within the jurisdiction hereby conferred the power of said court as a committing magistrate and in the trial of cases shall be the same as now or hereafter provided by the laws of the territory for justices of the peace and the process and proceeding of said court shall be governed by the laws regulating proceedings in justice courts and in all cases tried in said court an appeal may be taken to the district court for said county, in the same manner and upon the same conditions as provided by the laws of the territory in cases of appeal from justices of the peace, and on such appeal the district court shall have the same powers as provided by said laws.

§ 7. VACANCY.] That section eleven of article ten be amended to read as follows: In case of vacancy of the office of police justice by death, resignation or otherwise the city council shall call a special election to fill such vacancy until the next annual election or until his successor is elected and qualified, and in case of temporary absence, interest or disability to perform his duties it shall be the duty of the city justice of the peace to act as police justice during such vacancy, absence or disability in the trial of causes cognizable before said police justice.

§ 8. CHANGE OF GRADE.] That section eighteen, of article fifteen be amended by adding thereto the following: *Provided*, that after the grade of any street has been established as provided in this section the city shall, if they change the grade, be liable to the abutting property owners for any damage they may sustain by reason of any permanent improvements having been made by them to conform to the grade as first established.

§ 9. RE-NUMBERED SECTIONS.] That the sections of the articles in said chapter seventy-three be re-numbered to conform to the foregoing amendment.

§ 10. REPEAL.] That all the provisions of said chapter seventy three in conflict with this act are hereby repealed.

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

Approved March 8th, 1889.

# COMMISSIONER OF IMMIGRATION

## CHAPTER 34.

### TO DIVIDE AND DONATE DAKOTA EXHIBIT.

AN ACT Authorizing the Commissioner of Immigration to Donate the Property left from Dakota Exhibit at the "World's Industrial and Cotton Centennial Exposition," at New Orleans, to the University of North Dakota at Grand Forks, and the University of Dakota, at Vermillion, Dakota.

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

§ 1. DONATE EXHIBIT.] The Commissioner of Immigration is hereby authorized and directed to donate the property left over from the exhibits of the Dakota Exhibit at the World's Industrial and Cotton Centennial Exposition, at New Orleans, to the University of North Dakota, at Grand Forks, and the University of Dakota, at Vermillion, Dak. That the same be divided into two equal portions, as near as may be, and that one moiety thereof be donated to the Universities of North and South Dakota respectively.

§ 2. REPEAL.] All acts or parts of acts either general or special in conflict herewith be and the same are hereby repealed.

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

Approved, March 5th, 1889.

## COMPILED LAWS.

### CHAPTER 35.

#### JOINT RESOLUTION.

JOINT RESOLUTION, Providing for a Joint Committee to Report on the Advisability of Accepting the Compiled Laws.

RESOLVED, The House of Representatives concurring, that a Joint Committee of six members consisting of three from the Council and a like number from the House be appointed for the purpose of examining and reporting on the advisability of acceptance of the Compiled Laws of 1887.

### CHAPTER 36.

#### ADMISSIBILITY AS EVIDENCE.

AN ACT Declaring the Admissibility of the Compiled Laws of 1887 as Legal Evidence of the General Statutes of Dakota Territory.

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

§ 1. ADMISSIBILITY AS EVIDENCE.] That the compiled laws of 1887, prepared and published under and by virtue of chapter 83, laws of 1887, be and are hereby declared admissible in all courts of this territory as legal evidence of the statutes therein contained: *Provided*, that this declaration shall not preclude reference to the revised codes of 1887, or to the session laws of 1879, 1881, 1883, 1885 or 1887, nor prevent their control in case of any discrepancy between said codes or session laws and said compiled laws.

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

Approved March 5, 1889.

## CHAPTER 37.

## TO BE DELIVERED TO THE SECRETARY.

AN ACT, Entitled an Act Relating to the Compiled Laws.

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

§ 1. IN CUSTODY OF THE SECRETARY.] All copies of the compiled laws remaining in the hands of the compilers shall forthwith be delivered to the Secretary of the Territory and all power conferred by chapter eighty-three of the laws of 1887, providing for such compilation upon the compilers, to sell and dispose of said compiled laws and to fix the price for the same, and to receive, account for and pay the money derived from the sale of the same into the territorial treasury, is hereby conferred upon the Secretary of the Territory.

§ 2. EFFECT WHEN.] This act shall take effect immediately.  
Approved March 5, 1889.

## CONSTRUCTION OF LAW.

## CHAPTER 38.

## "SUCCESSIVE WEEKS" CONSTRUED.

AN ACT, Construing the Phrase "Successive Weeks."

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

§ 1. CONSTRUCTION OF "SUCCESSIVE WEEKS."] Whenever in any act or statute of the Territory of Dakota providing for the publishing of notices, the phrase successive weeks is used, the term weeks shall be construed to mean calendar weeks, and the publication upon any day in such weeks shall be sufficient publication for that week, provided, that at least five days shall intervene between such publications, and all publications heretofore or hereafter, made in accordance with the provisions of this act, shall be deemed legal and valid.

§ 2. IN EFFECT—WHEN.] This act shall take effect and be in force from and after its passage.

Approved, March 8th, 1889.

## CONSTITUTIONAL CONVENTION.

### CHAPTER 39.

#### PROVIDING FOR NORTH DAKOTA.

AN ACT Providing for a Constitutional Convention for North Dakota.

The sovereign people of the United States at the last national election declared by their votes in favor of the division of Dakota, and that both parts being possessed of population sufficient in number and loyal to republican institutions and the principles of the national government, be admitted into the union of states.

The people of that part of Dakota situated south of the 7th standard parallel being possessed of a sufficient population and entitled to admission into the national union as a state, on an equal footing with the other states which compose the union, have adopted a constitution and are demanding to be admitted into the union. The rapid increase in population and the wonderful developement of material wealth in that part of Dakota situated north of the 7th standard parallel, require for the promotion of the welfare and varied interest of its people other and more permanent government than that provided by the congress for the government of the several Territories of the United states.

*Wherefore, Be it Enacted by the Legislative Assembly of the Territory of Dakota:*

§ 1. ELECTION OF DELEGATES.] That for the purpose of enabling the people of that part of Dakota north of the 7th standard parallel to organize and form a state government and make application for admission into the union of states an election for the purpose of choosing delegates to a constitutional convention is hereby appointed to be held on the ninth day of April, 1889 at which time shall be chosen delegates, persons eligible to hold county offices, to said constitutional convention from the said counties of that part of the territory situated north of the 7th parallel and according to the apportionment of delegates among the several counties hereinafter named. *Provided*, that said election shall be conducted in all respects as an election under the general laws of this Territory and

the several county clerks and county auditors of the several counties of the Territory north of the 7th standard parallel are hereby required to issue notices of such election at least 15 days prior thereto, stating the object of the election and the number of delegates to be chosen, and shall deliver the same to the sheriff, who is required to post the same as the law now requires, and the several boards of county commissioners and other officers of the several counties are required to each and all perform all things that are now required of them by law in case of general elections, and the canvass and return of the votes shall be as now required by law in the case of county officers, and the county auditor shall issue certificates of election to all persons who shall be declared elected, *Provided*, that the persons to the number apportioned in each county receiving the highest number of votes at such election shall be elected as such delegates. It shall be the further duty of such county clerks within (10) ten days after such election to certify to the secretary of the Territory the names of all persons chosen as delegates from their respective counties, and to send the same to the secretary by mail.

§ 2. DUTY OF SECRETARY.] The secretary of the territory shall receive all certificates so transmitted to him by the said county clerks and shall preserve the same, and it is hereby made his duty to enter the names of all persons so certified to him as chosen delegates in a book which he shall provide for that purpose.

§ 3. MEET IN GRAFTON.] The delegates so elected at such election shall meet in the City of Grafton, in the County of Walsh, in said Territory of Dakota on the second Tuesday in May, 1889, at noon for the purpose of framing a constitution and performing all other things essential to the preparation of the Territory for making application to the general government for the admission of such part of Dakota into the union of states and in such room in said city as the secretary of the territory or the convention have provided, and at the hour heretofore named the secretary of the Territory or some member elect of said convention shall call the convention to order and shall call the roll of the members from the book heretofore provided, if such book can be obtained, and if not from the official returns of said election, and the certificates of election of each member in such manner as the convention shall prescribe, and the several delegates as their names are called shall take their seats in said convention. When the calling of the roll of members shall be completed the several delegates shall be required to take and subscribe an oath to support the constitution of the United States, and to faithfully and impartially discharge their duties as delegates to said convention. Said oath may be administered by said secretary or by any judicial officer of the Territory. The convention shall then proceed to organize by the election of a President, who shall be chosen from among the delegates, and of the other officers herein provided for. Said convention shall adopt such rules and regulations for their government as are provided in case of legislative bodies. It may adjourn from time to

time and shall be the sole judge of the elections and qualifications of its members. The President and all officers of said convention shall take and subscribe an oath to faithfully and impartially discharge the duties of their respective offices.

§ 4. CONSTITUTION—ELECTION.] Said convention, after its organization shall proceed to form and draft a constitution, republican in form, for that part of Dakota north of the seventh standard parallel, in which shall be defined the boundaries of the proposed state. It shall be the further duty of said convention to provide for an election by the people of the proposed state, at which election the said constitution shall be submitted to the people for ratification; and at which election the state officers, member of congress, members of the legislature, and all other elective officers provided for in said constitution shall be elected; and the said convention shall have power to provide all necessary means for holding said election, and for assembling said legislature when elected, and for carrying into effect all the purposes of said constitution; *provided*, that the expenses of all special elections under the provisions of this act of any ordinance of said convention shall be paid by each county in said Territory respectively.

§ 5. COMPENSATION.] The delegates to the said constitutional convention shall each receive a per diem of five dollars (\$5.00) for each day's attendance upon said convention, and five cents a mile for each mile necessarily traveled in going to and returning from said convention; said per diem and mileage to be paid by the Territorial Treasurer upon the warrant of the Territorial Auditor.

§ 6. AUDITING ACCOUNTS.] The Territorial Auditor is hereby authorized to audit and allow the accounts of the several delegates to said convention, upon certificate of the presiding officer of said convention, countersigned by the secretary thereof.

§ 7. OFFICERS OF CONVENTION.] The convention shall have power to elect all officers necessary to the convenience of said convention in the proper discharge of business, and may elect stenographers, messengers, clerks and janitor, each of whom shall receive such compensation as the convention shall determine, to be audited and paid in the same manner as the accounts of the members of the convention are audited and paid. Provided, that said convention before its adjournment shall ascertain the entire expense of holding the same, including the per diem and mileage of its members, compensation of its officers, and all necessary expenses, and shall certify the same under the hand of the presiding officer of said convention, and attested by the secretary thereof, to the Secretary of the Territory, and which shall be filed by the said Secretary of the Territory in his office, and be kept as a record thereof, and it is hereby made the duty of the several boards of county commissioners of the counties north of the Seventh Standard Parallel to cause to be levied and collected a special tax sufficient to pay all of said expenses, which tax shall be apportioned among the said counties by the Territorial

Board of Equalization in proportion to the assessed valuation, and when said tax is collected in each of the said counties, the same shall be paid by said counties into the Territorial Treasury.

§ 8. ELECTION LAWS—CANVASSERS.] The laws now in force governing elections and the canvass and return of the votes cast therein and the qualifications of voters shall govern in any election that may be held under this act, or under any ordinance of said convention. But said convention shall designate the Board of State Canvassers, and ordain the method by which the result of the state election shall be promulgated. The said convention shall also provide the manner of presenting the said constitution to the Congress of the United States, and do or ordain all things necessary to be done for the purpose of carrying into effect the government of the state, as soon as it shall be admitted into the Union of States.

§ 9. LIMIT OF PER DIEM.] That the members of said convention shall not receive pay for a session of more than thirty days, but said convention may sit for a longer period, and may adjourn from time to time.

§ 10. APPROPRIATION.] That for the purpose of defraying the expenses of the convention there is hereby appropriated out of any money in the Territorial Treasury, not otherwise appropriated, a sum sufficient to defray the expenses of said convention, not to exceed in the aggregate the sum of twenty thousand dollars.

§ 11. COUNTIES OF PIERCE AND BUFORD.] The board of county commissioners of counties to which the unorganized counties of Pierce and Buford are respectively attached for judicial purposes shall at the time named in Section 1, of this act, establish one or more election precincts in said unorganized counties and define the boundaries thereof, establishing polling places, appoint judges of election therefor, and do such other acts as may be necessary to secure a fair election in said counties under the provisions of this act. The judges so appointed shall perform all the duties and shall have all the power and authority of judges of election in said unorganized counties. They shall make returns of the votes cast, to the County Clerks of said counties to which they are severally attached as aforesaid. The board of canvassers of said counties shall canvass the votes cast in the said unorganized counties and certify the same to the Secretary of the Territory in the manner and within the time required in Section 1, of this act. The expenses of said election shall be audited and paid by said counties to which said unorganized counties are attached and the amounts so paid and the items thereof, shall be by the County Clerk of said counties certified to the Territorial Auditor, who shall draw his warrant on the Territorial Treasurer for the amount so paid if found correct.

§ 12. NUMBER OF DELEGATES—APPORTIONMENT.] The convention shall be composed of one hundred and fourteen delegates, who shall be apportioned among the several counties as follows: One from

each organized county, and one additional for 600 votes or major fraction thereof, cast at the last general election, viz:

Barnes	County, four delegates	
Burleigh	“ three	“
Benson	“ two	“
Bottineau	“ two	“
Cass	“ nine	“
Cavalier	“ three	“
Dickey	“ four	“
Eddy	“ two	“
Emmons	“ two	“
Foster	“ two	“
Grand Forks	“ eight	“
Griggs	“ two	“
Kidder	“ two	“
LaMoure	“ two	“
Logan	“ one	“
Morton	“ three	“
McHenry	“ two	“
McLean	“ two	“
McIntosh	“ one	“
Mercer	“ one	“
Nelson	“ three	“
Oliver	“ one	“
Pembina	“ six	“
Richland	“ four	“
Ransom	“ four	“
Ramsey	“ four	“
Rolette	“ two	“
Stark	“ two	“
Stutsman	“ four	“
Steele	“ two	“
Sargent	“ three	“
Traill	“ five	“
Towner	“ two	“
Walsh	“ seven	“
Wells	“ two	“
Ward	“ two	“
Pierce	“ one	“ (Unorganized.)
Billings	“ two	“

§ 13. SESSIONS.] All sessions or meetings of said constitutional convention shall be held at the place designated in Section 3, of this act.

§ 14. EFFECT—WHEN.] This act shall take effect from and after the 5th day of March, 1889, unless the Congress of the United States shall at its present session pass an enabling act for North Dakota, in such case this act to be null and void for any purpose.

Approved Feby. 8th, 1889.

## CORPORATIONS.

### CHAPTER 40.

#### AUTHORITY TO EXTEND BUSINESS AND DEFINE POWERS AND PRIVILEGES.

AN ACT to Amend Section one of Chapter Thirty-four of the Laws of 1887 and to Authorize Building and Loan Corporations or Associations to Extend their Business Beyond the Boundaries of the Territory of Dakota, to Define their Powers and Privileges, and for Other Purposes.

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

§ 1. AUTHORITY TO EXTEND BUSINESS.] That any building and loan association or corporation incorporated or to be incorporated under and by virtue of the laws of the Territory of Dakota that wishes to extend its business outside of and beyond the boundaries of the said Territory of Dakota may do so upon complying with the provisions of this act.

§ 2. STATEMENT OF INTENTION.] That such corporation or association shall insert in its articles of incorporation a statement of its intention to do business within and without the Territory of Dakota, or it shall amend its articles of incorporation by adding such a statement to them.

§ 3. MANAGING BOARD.] Such corporation shall have a board of directors of not less than five nor more than thirteen, who shall constitute the managing board of such corporation for all series issued.

§ 4. MINIMUM PREMIUM.] Such corporation may in its by-laws fix a per cent premium at less than which it will not be obliged to accept loans.

§ 5. LOAN FUND.] That not less than 83 per cent of all monthly dues collected from members of said corporation shall be put into a fund to be known as the loan fund, no part of which shall be used by said company for the purpose of paying its expenses or the expense of carrying on its business, excepting interest, taxes and insurance.

§ 6. TREASURER AND TRUSTEE.] That any such corporation which may hereafter be incorporated shall designate a national bank

as its treasurer and shall appoint a trust company as trustee to receive from it and from its treasurer all moneys of said corporation belonging to its loan fund to hold its securities and to perform such other acts of trust and guarantee as the directors of said loan corporation under its by-laws may authorize and direct.

§ 7. INVESTMENT OF FUNDS.] That any funds of such corporation not loaned for a period of more than 30 days and for which there is no sufficient demand under the provisions of the articles of incorporation and by-laws of the corporation may be loaned by the corporation at any rate of interest allowed by law upon any security approved and accepted by the board of directors of said corporation.

§ 8. POWER TO BORROW.] Such corporation shall have power to borrow money upon debentures issued to it by the trust company holding its securities or it may borrow upon its securities direct under such restrictions and regulations as its by-laws may provide.

§ 9. UNPLEDGED SHARES.] The board of directors of such corporation shall have power in their discretion to retire the unpledged shares of stock of such corporation at any time after the third year from the date of issue of such stock and to enforce the withdrawal of the same in such manner and under such regulations as they may deem best for the interest of the corporation. They shall determine by lot or in any other impartial manner which shares shall be thus retired, but no unmatured stock shall be retired while any matured stock remains in force.

§ 10. APPLICATION OF LAWS.] All the laws of the Territory of Dakota respecting building and loan associations shall apply equally to corporations herein provided for except wherein such laws may conflict with the provisions of this act.

§ 11. CAPITAL STOCK AMENDMENT.] That section one (1), of chapter thirty-four (34), of the laws of 1887, be and the same is hereby amended so as to read as follows, viz:

§ 1. CAPITAL STOCK.] The capital stock of any corporation created by this act shall be paid in at such times, amounts and places as the by-laws shall appoint; every share of stock shall be subject to a lien for the payment of unpaid installments, and other charges incurred thereon under provisions of the charter and by-laws and the by-laws may prescribe the form and manner of enforcing such lien; new shares of stock may be issued in lieu of the shares withdrawn or forfeited, the stock may be issued in one or more successive series in such amount as the board of directors or stockholders may determine and any stockholder wishing to withdraw from the said corporation shall have power to do so by giving thirty days notice of his or her intention to withdraw, when he or she shall be entitled to receive the amount paid in by him or her and such proportion of the profit as the by-laws may determine, less all fines and other charges; provided that at no time shall more than one-half the funds in the treasury of the corporation be applicable to the demands of withdrawing stockholders without the consent of the board of directors;

and that no stockholder shall be entitled to withdraw whose stock is held in pledge for security. Upon the death of the stockholder his or her legal representatives shall be entitled to receive the full amount paid in by him or her and legal interest thereon, first deducting all charges that may be due on the stock. No fines shall be charged to a deceased member's account from or after his decease, unless the legal representatives of such decedent assume the future payment on stock.

The capital stock of any building and loan association heretofore incorporated or to be incorporated may be increased or diminished and the other provisions of this act made operative and applicable to building and loan associations incorporated or to be incorporated by a two-thirds vote of the board of directors of such corporation upon publishing in two newspapers of general circulation in the county in which such association is located for two weeks notice of intention to increase capital stock and upon filing with Secretary of the Territory a certified copy of the minutes of the meeting of the board of directors of such association at which it was voted to increase the capital stock together with proof of publication of the notice hereinbefore provided for.

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

Approved February 15, 1889.

## CHAPTER 41.

### FINANCIAL STATEMENTS AND EXEMPTION FROM TAXATION.

#### AN ACT Regulating the Business of Building and Loan Corporations.

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

§ 1. FINANCIAL STATEMENT.] That all Building and Loan Corporations created by virtue of the Laws of Dakota Territory, shall annually on the first day of January, make a true and correct statement, verified by the oath of its President or Secretary, setting forth its actual financial condition, and the amount of its property and liabilities, which statement shall be forwarded to the Secretary of the Territory, not later than the tenth day of January, under a penalty of five hundred dollars (\$500) to the Territory, to be recovered by indictment against the President, Secretary or Directors. And the Secretary upon receipt of such statement, if he be satisfied from the same, that such Association be solvent and conducting its business in a safe and conservative manner, shall issue to such Association a certificate

authorizing it to continue business for the ensuing year, and the Secretary shall be entitled to a fee therefor of \$5.00 to be paid by such Association. Any such Association shall also cause to be published for one month, a copy of said statement in at least one newspaper of general circulation, published in the county where the principal office or place of business of such Association is located.

§ 2. APPLICATION BY FOREIGN ASSOCIATION.] No Foreign Building and Loan Association or Corporation, having the words "Building and Loan" as a part of its name, shall be entitled to do business in the Territory of Dakota, until it shall have made application to the Secretary for permission to do business in the Territory; and the Secretary shall have examined into the financial condition of such Associations and its method of doing business, and if the Secretary be satisfied upon such examination, that such Association is solvent and its method of doing business, such as is likely to be beneficial to all of its members alike, he shall issue a certificate of authority to such Association as provided for in Section 1, of this act, such Association having first published for three weeks, a true and complete statement of its financial condition, sworn to by its President and Secretary, in at least one newspaper of general circulation, in each county in which such Association wishes to transact business, and having furnished the Secretary an affidavit of such publication made by the publishers of such newspaper. For such examination the Secretary shall be entitled to the sum of ten dollars (\$10) per day, and ten cents per mile for the distance actually travelled in making such examinations. The said certificate, shall entitle such Association to transact business in the Territory for one year only from its date, and annually thereafter during the month of January, such Association shall publish said statement in the manner above described and it shall be the duty of the Secretary to make an examination of such Associations as above stated, for which he shall receive the compensation above specified. No such Association shall be entitled to transact business until having first fully complied with the provisions of this section.

§ 3. EXEMPTION OF SHARES FROM TAXATION.] As Building and Loan Corporations are aggregations of laborers, mechanics, workmen and working women, which start without any paid up capital, and as these members only pay each month an assessment in proportion to shares, for the purpose of furnishing a home to each of its members in turn, which assessment stops the moment that every member has thus been furnished with such a home, these Associations are hereby declared to be benevolent institutions within the meaning of Section 2, Chapter 28, of the Political Code of 1877, and as the monthly assessments paid in by the members of these Associations are immediately given to one member, to enable such member to build a home, and as such member immediately begins to pay taxes on the home thus erected, and as the shares held by such members merely entitle them, in the future, in their turn to get money to build homes,

shares issued by such Associations shall be exempt from taxation.

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

HOUSE OF REPRESENTATIVES,  
BISMARCK, Dakota, March 6th, 1889. }

I hereby certify that on the 6th day of March, 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 this bill pass, the objections of the Governor to the contrary notwithstanding?" The roll was called and the bill did pass, more than two-thirds of the members present and voting, voting in the affirmative.

Attest: JOHN G. HAMILTON,  
Chief Clerk.

H. H. KEITH,  
Speaker of the House.

COUNCIL CHAMBER,  
BISMARCK, D. T., March 6th, 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 6th day of March, A. D. 1889. That the objections of the Governor were read at length and entered upon the Journal of the Council; thereupon the question was put, "Shall this bill pass, the objections of the Governor to the contrary notwithstanding?" The roll was called and the bill 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.

## COUNTIES.

### CHAPTER 42.

#### POWER TO ERECT BUILDINGS AND ISSUE BONDS.

AN ACT Authorizing and Empowering Organized Counties of Dakota to Erect County Buildings for Court House and Jail Purposes, and to Issue and Dispose of Bonds to Provide Funds to pay Therefor, and to Provide for the Payment of Principal and Interest of Such Bonds.

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

§ 1. POWER TO BOND.] That whenever any county of this Territory having five hundred voters or more shall have been organized for four years or more and the county seat of such county has been permanently located, as provided by law, and the building or buildings occupied by such county for court house, office or jail purposes are inadequate to the wants thereof, or unsafe by reason of extraordinary risk or fire or otherwise, then such county may issue its bonds for the purpose of purchasing the site for and the erection of

a court house or jail, or both, under the restrictions and according to the provisions of this act.

§ 2. LIMIT.] No county shall issue its bonds under the provisions of this act, in excess of four per cent of its valuation according to the last assessment thereof, and including all the outstanding indebtedness of such county at the time of issuing such bonds.

§ 3. ELECTION.] Whenever, in the judgment of a majority of the board of county commissioners in any county which comes under the provisions of this act, such county has insufficient or inadequate buildings for its use for court house or jail, or both, such board may order an election for the purpose of determining by a vote of the electors of such county the question of issuing its bonds for the purpose of the erection of a court house or jail, or both, as by this act provided, including the purchase of a site for such court house, jail, or both, at such county seat, if none is provided. Such election shall be held in the manner and upon the notice prescribed by law for other elections, but the published and posted notices of such election shall state its object, the amount of bonds to be issued, the denominations of such bonds, the length of time for which they shall run, and the rate of interest which they shall bear, and the ballots shall have printed or written or partly printed and partly written thereon "For issue of bonds," or "Against issue of bonds," and if a majority of the ballots so cast shall be for the issue of bonds, then the county commissioners shall issue and dispose of said bonds, as provided by this act, and erect a court house or jail, or both, for the use of such county according to the provisions of this act.

§ 4. CONTRACTS.] The board of county commissioners of any county erecting county buildings under the provisions of this act shall have power to purchase ground for site if necessary, let contracts for the building and completion of such court house or jail, or both, and the buildings connected therewith, and shall have the entire supervision of its construction: *Provided*, that all contracts connected with the erection of said buildings shall be let to the lowest and best bidder, after notices of the letting of such contracts shall have been published in at least one of the leading newspapers of such county, and in case there are no newspapers in such county, then in one of the leading newspapers in some adjoining county, for at least once a week for four consecutive weeks, before the letting of said contracts, and the board shall have power to reject any or all bids.

§ 5. AUDITORS.] The county clerk or auditor, county treasurer and some qualified elector and freeholder of such county appointed by the board of county commissioners outside of their own number, shall act as a board of auditors to audit accounts of such board of county commissioners in connection with the erection of county buildings, pursuant to the provisions of this act, and said board of auditors shall receive for their services the sum of \$3.00 each for every

day actually and necessarily employed in such capacity, to be paid upon the warrant of such board of county commissioners.

§ 6. DENOMINATIONS OF BONDS—FORM.] All bonds issued pursuant to and under the provisions of this act, shall be in denominations of not less than one hundred (100) dollars and not more than one thousand (1,000) dollars, shall bear the date of their issue, shall be made payable to purchaser or bearer and become due in not less than ten and not more than twenty years from their date and shall bear interest at the rate of not exceeding seven per cent per annum, payable annually with coupons attached for each interest payment. The bonds and each coupon shall be signed by the chairman of the board of county commissioners and shall be attested by the county clerk or auditor. The seal of the county shall be affixed to each bond but not to the coupons, and said bonds shall each contain a recital in substantially the following words: "Issued in pursuance of an act of the Eighteenth Legislative Assembly of the Territory of Dakota entitled an act authorizing and empowering organized counties of Dakota to erect county buildings for court house and jail purposes and to issue and dispose of bonds to provide funds to pay therefor, and to provide for the payment of the principal and interest of such bonds." Said bonds shall be printed, engraved or lithographed on good bond paper; said bonds may be made payable anywhere in the United States; shall be sold by the board of county commissioners at not less than their par value and the proceeds applied solely to the payment of the indebtedness incurred in the erection of court house or jail or both, and purchase of site therefor. Said bonds or any of them shall not be sold until after having been duly advertised at least once a week for four consecutive weeks in one of the leading newspapers published at the seat of government, Territory of Dakota, and for the same length of time at any other point deemed advisable by said board of county commissioners. The proceeds of the sale of said bonds shall be deposited in the treasury of said county, to be paid out by the county treasurer of said county on order of said board of county commissioners. The county treasurer of said county shall give an additional bond to the said board of county commissioners in double the amount of the bonds so issued and sold, and shall receive as compensation for the receiving and disbursing of all funds arising from the sale of said bonds one per centum of the par value of said bonds, and the compensation herein provided for shall be in lieu of all other commissions allowed him by law.

§ 7. TAX.] The board of county commissioners shall levy each year upon the taxable property of the county a sufficient tax to pay the interest on said bonds as the same accrues and a reasonable time before maturity, sufficient tax to provide a sinking fund for the payment of the bonds when they mature.

§ 8. PAYMENT.] When said bonds and the several coupons thereto attached mature it shall be the duty of the county treasurer

to pay the same on presentation and to cancel them when paid.

§ 9. **REGISTRY.**] Before the bonds are delivered to the purchaser they shall be presented to the county clerk or auditor, who shall register them in a book kept for that purpose and known as "The bond register," in which register he shall enter the number of each bond, its date, date of maturity, amount, rate of interest, to whom and where payable.

§ 10. **NEGOTIABLE.**] Bonds issued in substantial conformity to this act shall be in law considered negotiable.

§ 11. **FUNDING BONDS.**] Any county in this Territory which has issued warrants or other evidence of indebtedness since January 1st, 1887, for the purpose of building a court house or jail, or both may issue bonds under the provisions of this act to fund such warrants or other evidence of indebtedness and if such indebtedness was authorized by a majority vote of the qualified electors of such county previous to the incurring of the same no new election shall be had, and the board of county commissioners of any such county is hereby authorized and empowered when in the judgment of such board it is deemed to the best interests of such county to issue such bonds, and to apply the proceeds solely to the redemption of such warrants or other evidences of indebtedness, *provided*, the bonds issued under the provisions of this section shall bear a lower rate of interest than the outstanding indebtedness proposed to be funded.

§ 12. **POWER EXTENDED.**] Any county in this territory which has heretofore and since January 1st, 1887, submitted to the voters of such county the question of building a court house or jail, or both, and issuing bonds therefor and upon such election the building of a court house or jail, or both, and the issuing of bonds therefor was authorized or directed by a majority vote of the qualified electors of such county as evidenced by a majority of votes cast at such election upon said question so submitted to them, no new election shall be had but such elections and the bonds when issued thereunder are hereby held and declared legal and valid as if the election had been held after the passage and approval of this act, and the board of county commissioners of any such county are hereby authorized and empowered to issue such bonds, and with the funds so obtained from the sale thereof to construct a court house or jail, or both, and are also hereby empowered to purchase a site for such court house or jail, or both, at such county seat if none is provided and pay for the same out of any unappropriated moneys in the county treasury; or contract in the name and in behalf of the county for the sale and conveyance of such site, to be paid for from the proceeds of such bonds when negotiated.

§ 13. **REPEAL.**] All acts or part of acts in conflict with this act are hereby repealed.

§ 14. **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 21, 1889. }

I hereby certify that on the 18th 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 roll was called, 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 21, 1889. }

I hereby certify that the within act, together with the objections of His Excellency, Governor, Louis K. Church, was received from the House of Representatives on the 20th day of February, A. D. 1889; that the objections of the Governor were read at length and the question stated, "Shall this act be passed, the objections of the Governor to the contrary, notwithstanding." The roll of members was called and the act did pass, more than two-thirds of the members of the Council voting in the affirmative.

Attest: R. E. WALLACE,  
Chief Clerk.

SMITH STIMMEL,  
President of the Council.

## CHAPTER 43

## POWER TO BOND FOR SEED WHEAT.

AN ACT, Authorizing Counties to Issue Bonds to Procure Seed Wheat for Needy Farmers Resident Thereof.

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

§ 1. PETITION.] Whenever a number of voters equal to one-third of the vote cast at the last general election in any county, shall petition to the Board of County Commissioners of such county, asking that said board proceed under the provisions of this act, said board may at a meeting thereof duly called for that purpose prior to the first day of April, 1889, issue the bonds of such county in an amount not to exceed two thousand dollars for each one hundred votes cast at the last general election therein; provided, that the total amount of bonds issued by any county under the provisions of this act, shall not exceed twenty-five thousand dollars and shall be in denominations of five hundred dollars, bearing date the first day of April, 1889, with interest payable semi-annually, at some place in the city of New York, in the state of New York, to be specified in said bonds, on the first day of April and October in each year, at a rate of interest, not exceeding seven per cent. per annum, running ten years, and payable at the option of the county after five years from the date thereof.

§ 2. BONDS.] Such bonds shall be executed for the county, and under the seal thereof by the chairman of the board of county commissioners and shall be attested by the County Auditor or County Clerk and shall be negotiated by said board in the manner hereinafter provided.

§ 3. SALE.] It shall be the duty of such board, to receive sealed proposals for the purchase of said bonds, after giving notice for ten days in three newspapers of general daily circulation, published as follows: One in the city of St. Paul, in the state of Minnesota; one in the city of Bismarck, in the Territory of Dakota, and one in the county where the bonds are to be issued, and said bonds shall be sold to the highest bidder for cash; provided said bonds shall not be sold for less than their par value, provided further, the said board may reject all bids and postpone the sale of said bonds for a time, not exceeding twenty days.

§ 4. PROCEEDS.] The proceeds arising from the sale of said bonds shall be deposited by the purchaser thereof in the treasury of the county, and shall be paid out only on the order of the Board of County Commissioners.

§ 5. TREASURER'S BOND.] It shall be the duty of said board to require the County Treasurer to give a further and additional bond, with good and sufficient sureties, in a sum to be determined by said board before said bonds are paid into the treasury. Said bond shall be approved by said board.

§ 6. TAX.] For the purpose of prompt payment of principal and interest of the bonds herein provided for, there shall be levied by the board of county commissioners, at the time the other taxes are levied, such sums as shall be sufficient to pay such interest and at reasonable time prior to the maturity of said bonds in addition thereto, a sinking fund tax shall be annually levied sufficient to retire and pay said bonds at their maturity, and it shall be the duty of the County Treasurer to pay promptly on the first days of April and October in each year, such interest as shall then be due, and to purchase said bonds at not more than their par value, and retire and cancel the same with the sinking fund tax as fast as the same shall be received. 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. *Provided*, that the Board of County Commissioners may deposit any portion of the sinking fund provided for hereby in any National Bank in the Territory of Dakota, which shall furnish to the county a good and sufficient bond, and receive interest on the same which shall be credited to the sinking fund itself. It shall be the duty of the Treasurer when said bonds or any coupons attached thereto are paid to cancel the same by writing upon the face thereof the date of payment.

§ 7. REGISTRY.] Before the bonds are delivered to the purchaser they shall be presented to the County Treasurer, who shall register them in a book to be kept for that purpose, and known as the bond register, in which register he shall enter the number of each bond, its date, date of maturity, amount, rate of interest, to whom and where payable.

§ 8. PURCHASE SEED WHEAT.] The fund arising from the sale of said bonds shall be applied by the said board to the purchase of seed

wheat for residents of the county who suffered partial or total loss of their crops by frost in the year 1888, and who are unable to procure the same; provided that not more than one hundred and fifty bushels of wheat shall be furnished to any one person.

§ 9. LIEN ON CROP.] The person receiving seed wheat in accordance with this act, shall become indebted to the county, furnishing the seed in the amount of the purchase price therefor, with the cost of transportation and all other expenses necessarily attendant upon the carrying out of the provisions of this act, which total amount shall be a lien upon the crop of such person and in favor of the county, in accordance with Chapter 150 of the General Laws of the Territory of Dakota entitled, "An Act creating liens on the crops of persons buying seed on credit, and providing the manner of filing and foreclosing the same." Approved March 11, 1887, which is hereby made applicable to counties furnishing seed grain under the provisions of this act. The amount of such indebtedness shall become due and payable by each person receiving such aid, on Nov. 1, 1889, together with interest on such amount from the 1st day of April, 1889, at the rate of seven per cent. per annum. If the said indebtedness be not paid on November 1, 1889, the amount thereof shall be entered upon the tax list of such county for the year 1889, as a tax on the land upon which such seed wheat was sown, to be collected as other taxes are and the sum so entered and levied shall be a first lien upon the crops of grain raised each year by the person receiving said seed grain, and also upon the real estate owned by such person until the said tax is fully paid, and the board of county commissioners shall keep a complete and accurate record of all its proceedings under the provisions of this act, which record shall contain the names and residences of all persons receiving seed wheat, the extent of the loss sustained by each person, the acreage to be sown, the amount of seed furnished and all other facts and circumstances connected with the transaction; provided, that seed shall be furnished to no person until all existing chattel mortgages and other seed liens upon the crop to be grown shall be satisfied or made subject to the lien herein provided for.

§ 10. RESIDUE OF FUND.] If any portion of the funds provided for in this act shall be unexpended on the first day of May, 1889, the same shall become a part of the General Fund of the county, and shall be so treated by the County Treasurer.

§ 11. GENERAL FUND.] The money received by the County Treasurer in payment of the debt incurred by the persons receiving seed wheat shall become a part of the county general fund.

§ 12. NOTICE OF PURPOSE.] The county commissioners of every county proposing to distribute seed wheat under the provisions of this act, shall advertise such intention for at least ten days prior to the 15th day of March, 1889, giving notice that all applications must be filed with the Auditor or County Clerk by that date (March 15th), at which time if more seed wheat is called for than can be supplied

by such commissioners, a pro rata distribution shall be made among those applying and the commissioners shall have the right to refuse any application which they may deem it improper to grant.

§ 13. APPROPRIATION.] The board of county commissioners of any county having funds in its treasury belonging to the general fund of said county, not otherwise appropriated, may at the time, and subject to all the conditions and limitations in this act contained, appropriate any portion thereof, not exceeding the sum of twenty-five thousand dollars, for the purpose specified in this act.

§ 14. AFFIDAVIT.] The affidavit provided for by Chapter 150, of the General Laws of 1887, may be made by the County Auditor or Chairman of the Board of County Commissioners.

§ 15. APPLICATION.] All persons wishing to avail themselves of the benefit of this act, shall file with the County Auditor of the county where said applicant resides, on or before the fifteenth day of March, A. D., one thousand eight hundred and eighty-nine (1889), an application duly sworn to before said County Auditor, which application shall be attested by at least two (2) witnesses. Said application shall contain a true statement of the number of acres the applicant has plowed or prepared for seeding, how many acres the applicant intends to have plowed and prepared for seeding time; how many bushels are necessary and what kind of wheat to seed the ground so prepared as aforesaid; that said applicant's crop was in the year one thousand eight hundred and eighty-eight entirely destroyed by frost, or if only partially destroyed, how many bushels the applicant harvested in the year one thousand eight hundred and eighty-eight, and each kind of grain; also, what amount of seed grain said applicant desires to borrow of said county, that the applicant has not procured and is unable to procure the necessary seed wheat; also, that the applicant desires the same for seed and for no other purpose, and that the applicant will not sell or dispose of the same, or any part thereof. Said application shall also contain a true and full description of all real and personal property owned by the applicant, and whether encumbered or otherwise, and also the government sub-division or sub-divisions upon which the party intends to sow said seed. And the County Auditor shall upon the granting of the prayer of the applicant cause to be filed, recorded and indexed in the office of the Register of Deeds, in the same manner that mortgage deeds are filed, recorded, and indexed, a certified copy of such application which the Register of Deeds shall file, record and index, and the record so made shall be notice of the lien created by this act, to all subsequent encumbrancers. The fee of the Register of Deeds for each application filed and recorded shall be 50 cents which shall be paid by the applicant.

§ 16. LIMIT OF TIME.] Said applications shall be filed in said County Auditor's office and be open to public inspection and no applicant shall be entitled to receive any of the benefits of this act unless on or before the fifteenth day of March, one thousand eight hun-

dred and eighty-nine, the applicant shall have made and filed with the County Auditor of the county in which the applicant resides, the application as required and in the manner and form mentioned in this act.

§ 17. CONDITION OF ISSUANCE.] The bonds herein provided for shall not be issued unless the same are authorized by the vote of all the members of the Board of County Commissioners of said county.

§ 18. WHEN PAYABLE.] Said board may at any time after the first day of November, with the concurrence of the owner, pay any of the bonds issued under the provisions of this act, out of the funds provided for that purpose, at not more than the par value thereof.

§ 19. NOTICE IN WEEKLY.] If there be no daily newspaper published in the county issuing bonds under the provisions of this act, then the notice provided for in Section 3, of this act, may be published in a weekly newspaper in said county.

§ 20. MISDEMEANOR.] Any person who shall obtain seed wheat under the provisions of this act, and who shall use the same, or any part thereof, for any other purpose, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

§ 21. EFFECT—WHEN. This act shall be in force from and after its passage and approval.

#### HOUSE OF REPRESENTATIVES,

BISMARCK, February 6th, 1889. }

I hereby certify that on the 6th 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, 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?" The bill did pass, more than two-thirds of the House, voting in the affirmative.

Attest: JNO. G. HAMILTON,  
Chief Clerk of the House.

H. H. KEITH,  
Speaker of the House.

#### COUNCIL CHAMBER,

BISMARCK, D. T., Feb'y 6th 1889. }

I hereby certify that the within act, together with the objections of his Excellency, Governor Louis K. Church, was received from the House of Representatives on the 6th day of February, 1889. That the objections of the Governor were read at length and the question stated: "Shall this act be passed, the objections of the Governor to the contrary, notwithstanding?" The roll of members was called and the act did pass, more than two-thirds of the members of the Council present and voting, voting in the affirmative.

Attest: R. E. WALLACE,  
Chief Clerk

SMITH STIMMEL,  
President of the Council.

## CHAPTER 44.

## AMENDMENT TO SEED WHEAT BONDING ACT.

AN ACT Amending an Act of the Eighteenth Legislative Assembly, Entitled "An Act Authorizing Counties to Issue Bonds to Procure Seed Wheat for Needy Farmers Resident Thereof."

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

§ 1. TIME WHEN DUE.] That an act of the eighteenth session of the legislative assembly of the Territory of Dakota entitled "An act authorizing counties to issue bonds to procure seed wheat for needy farmers resident thereof," which became a law February 6th, 1889, be and the same is hereby amended by striking out at the end of section one (1) thereof the words "running ten years and payable at the option of the county after five years from the date thereof," and by inserting in lieu thereof the following: "To become due and payable in not less than five nor more than ten years from the date thereof, the date of maturity to be fixed by the county board at the time the bonds are issued."

§ 2. EFFECT WHEN.] This act shall take effect from and after its passage and approval.

## 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 House of the Legislative Assembly in which it originated, within the time prescribed by the organic act, has become a law without his approval.

M. L. McCORMACK,  
Secretary of the Territory.

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## CHAPTER 45.

## FUNDING BONDS.

AN ACT, Amending Chapter 13 of the Laws of the Seventeenth Legislative Assembly, Entitled "An Act, Authorizing and Empowering the Organized Counties of Dakota to Issue and Dispose of Bonds to Provide Funds to Pay Outstanding Indebtedness, and to Provide for the Payment of the Principal and Interest Thereof."

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

§ 1. AMENDMENTS.] That chapter 13, of the laws of the 17th legislative assembly be and the same is hereby amended by striking out January 1st, 1887 where they occur in the eighth line of sec-

tion 1 of said act and inserting in lieu thereof: February 1st, 1889, and by striking out the word "semi-annually" where it occurs in the 19th line of section 1 of said act, and inserting in lieu thereof the word "annually," and by striking out of section 1 of said act the 39th and 40th lines thereof and the words "each bond" in the 41st line thereof, and inserting in lieu thereof the words, "which became a law March 7th, 1887, and as amended by the 18th Legislative Assembly."

Approved, February 26, 1889.

## CHAPTER 46.

### FUNDING BONDS.

AN ACT Authorizing the Refunding of Outstanding County Bonds.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota.*

§ 1. POWER OF BOARD.] Each and every organized county of this Territory is hereby authorized and empowered by and through its Board of County Commissioners, when in the judgment of said Board it is deemed to be to the best interests of the county to issue its negotiable bonds in the name of the county corporation for the sole purpose of funding the outstanding bonded indebtedness existing against the county, that is due and payable, or is about to become due and payable, or whenever said indebtedness can be refunded at a lower rate of interest.

§ 2. FORM OF BONDS.] The bonds issued under the provision of this act shall be in denominations of not less than \$100.00 nor more than \$1,000.00; shall bear the date of their issue; shall be made payable to the purchaser or bearer, and shall be made payable in not less than ten nor more than twenty years from their date, and bear interest at a rate not exceeding six and one-half (6½) per cent. per annum, and payable annually or semi-annually as may be agreed upon, with coupons attached for each interest payment. The bonds and each coupon shall be signed by the Chairman of the Board of County Commissioners, and shall be attested by the County Clerk or Auditor. The seal of the county shall be affixed to each bond but not to the coupons. Said bonds shall be engraved or lithographed on good bond paper, and each bond shall recite upon its face that it is issued under the provisions of this act, designating it by its title and date of approval or becoming a law. Said bonds may be made payable anywhere in the United States.

§ 3. EXCHANGE OR SALE.] Said bonds may be exchanged at not less than par value for an equal amount of bonds permitted to be

funded under the provisions of section 1 of this act, of the county issuing them, or said bonds may be sold by the Board of County Commissioners, at not less than par value, and the proceeds applied solely to the payment of such indebtedness. When such bonds are so taken up and paid by the issue of bonds as herein provided for, such bonds shall be marked "Paid by bond No. ....," (giving number of bond) and shall be retained by the county treasurer until his settlement with the county commissioners, and shall then be carefully compared with the bond registered and after such comparison shall be placed in the custody of the county auditor or county clerk and it shall be his duty to preserve the same.

§ 4. TAX.] The board of county commissioners shall each year levy upon the taxable property of the county a sufficient tax to pay the interest on said bonds as the same accrues and a reasonable time before maturity, a sufficient tax to provide a sinking fund for the payment of the bonds when they mature.

§ 5. PAYMENT.] When said bonds and the several coupons thereto attached mature, it shall be the duty of the county treasurer to pay the same on presentation out of any funds in his hands applicable thereto, and shall cancel them when paid by writing or stamping across the face of each coupon or bond the words: "Cancelled by payment this... day of ....." (inserting the day of payment).

§ 6. REGISTRY.] Before the bonds are delivered to the purchaser they shall be presented to the county treasurer, who shall register them in a book to be kept for that purpose and known as the "bond register," in which register he shall enter the number of each bond, its date, date of maturity, amount, rate of interest, to whom and where payable.

§ 7. NEGOTIABLE.] Bonds issued in substantial conformity to this act shall in law be considered negotiable.

§ 8. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved March 2, 1889.

## CHAPTER 47.

## BOUNDARIES OF BUTTE AND HARDING.

AN ACT to Define the Boundaries of the Counties of Butte and Harding.

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

§ 1. BOUNDARIES.] All that district of country included within the following boundary lines shall be and the same is hereby declared the County of Butte, viz: Beginning on the western boundary line of Dakota where it intersects the parallel of latitude forty-five degrees and fifteen minutes north, running thence east along said parallel to the one hundred and third meridian of longitude west of Greenwich, thence south along said meridian to the township line between townships seven and eight, north of Black Hills base line, thence west along said line to Red Water creek, running thence westerly up said creek to the boundary line of Dakota Territory, thence north along said boundary to the place of beginning.

§ 2. HARDING.] The County of Harding shall be bounded and described as follows: Beginning on the western boundary line of Dakota Territory where it intersects the parallel of latitude forty-five degrees and forty minutes north, thence running east along said parallel to the one hundred and third meridian of longitude west of Greenwich, thence south along said one hundred and third meridian to the parallel of latitude forty-five degrees and fifteen minutes north, thence west along said parallel to the western boundary line of the Territory of Dakota, thence north along said boundary line to the place of beginning.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved February 28th, 1889.

## CHAPTER 48.

## QUARTERLY STATEMENT.

AN ACT to Amend Section 103, of Chapter 28 of the Political Code.

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

§ 1. QUARTERLY STATEMENT.) That Section 103, of Chapter 28, of the Political Code, be and is hereby amended to read as follows: The County Clerk or Auditor and County Treasurer conjointly shall make out quarterly a detailed exhibit under oath, showing the receipts and disbursements of the county for the preceding quarter; and also the assets and liabilities at the time of making out the same, said exhibit shall show the amount of all orders on the treasury issued during the quarter next preceding, on what account, and also the liabilities of the county, stated in detail, and the assets of every kind as near as [may] be, showing also the amounts of funds in the treasury at the time of making said exhibit on what account paid in, the kind of funds, and the place or places where said funds are deposited. Said exhibit shall be made out quarterly and posted up in the office of the Treasurer on the first Monday in January, April, July and October of each year, and said statement shall also be published within ten days thereafter in the official newspapers of said county.

§ 2. REPEAL.] That all acts and parts of acts, in conflict with this act, are hereby repealed.

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

Approved, February 28, 1889.

## CHAPTER 49.

## CONTRACTS FOR FUEL, ETC.

AN ACT to Amend Section Forty-five (45), of Chapter Twenty-one (21), of the Political Code, Relating to the Manner of Letting Contracts by County Boards.

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

§ 1. BIDS FOR SUPPLIES.] That section forty-five (45), of chapter Twenty-one (21), of the political code be amended by adding thereto the following: "The provisions of this section shall apply to all contracts for fuel, stationery and all other articles for the use of said county, or labor to be performed therefor when the amount to be paid for the same during any year exceeds the sum of one hundred dollars; *Provided*, that in all such cases advertisement for bids therefor need not be for more than three (3) consecutive weeks in some weekly newspaper published in said county and provided also that all contracts for the furnishing of stationery, blank books and supplies generally for all county officers shall be made at the first session of the regular meeting in April to run for the period of one year.

§ 2. REPEAL.] That all acts and parts of acts in conflict herewith be and the same are hereby repealed.

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

Approved, March 7, 1889.

## CHAPTER 50.

## TAXES IN ONE COLUMN.

AN ACT to Amend Sub-division Two and Three Respectively of Section 37, of Chapter 28, Political Code.

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

§ 1. TAXES IN ONE COLUMN.] That sub-divisions two and three respectively, of section 37, of chapter 28, of the political code, each be amended by adding thereto the following: "Except that the general, territorial and county taxes may be placed in one column."

§ 2. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

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

Approved, March 8, 1889.

## CHAPTER 51.

### TRANSFER OF FUNDS BY COMMISSIONERS.

AN ACT to Authorize the Board of County Commissioners of any County to Transfer Unexpended Balances in the County Treasury from the Road or Bridge Fund to the General Fund.

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

§ 1. TRANSFER OF FUNDS.] The board of county commissioners of any county may at any regular meeting thereof and they are hereby authorized and empowered to transfer to the general fund any unexpended balances which are or may be in the county treasury, belonging to the road and bridge fund, when in their opinion such transfer will be beneficial to the county.

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

Approved March 8th, 1889.

## CHAPTER 52.

### SALARY OF COUNTY AUDITOR REGULATED.

AN ACT to Amend Section Fourteen, of Chapter Ten, Session Laws of 1887.

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

§ 1. SALARY OF AUDITOR.] Strike out all of said section fourteen, chapter ten, and insert in lieu thereof the following:

§ 2. "The salary of the county auditor shall be regulated by the value of the property in their respective counties as fixed by the Territorial board of equalization for the preceding year, as follows: In counties where the amount of taxable property does not exceed the sum of one and one-half million dollars they shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars, and one mill on each dollar of all amounts in excess of said last named

sum and less than five hundred thousand dollars, and one-tenth of one mill on each dollar of all sums in excess of said last named sum. In counties where the value of taxable property for the preceding year as fixed by said board of equalization exceeds the sum of one and one-half million dollars the county auditor shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars, and one-third of one mill on each dollar in excess of said last mentioned sum and less than two million dollars, and one-fifth of one mill on each dollar of all sums in excess thereof; *Provided*, that no county auditor shall receive more than fifteen hundred dollars for his personal services in the counties where the valuation does not exceed four million dollars, nor more than two thousand dollars in counties where the valuation exceeds four million dollars, and all moneys received as fees or percentage in excess of the amount provided for in this section shall be paid by the auditor at the end of each year into the revenue fund of the county."

§ 3. REPEAL. All acts or parts of acts, either special or general, in conflict with this act are hereby repealed.

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

Approved, March 8th, 1889.

## CHAPTER 53.

### RE-LOCATION OF COUNTY SEATS.

AN ACT to Provide for the Re-Location of County Seats in Counties Where the Same are not Located on the Line of any Railroad, and there are no Public Buildings thereat, or the Same are not Constructed of Brick or Stone, or there is no Record Vault.

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

§ 1. WHAT COUNTIES MAY RE-LOCATE COUNTY SEATS.] That in all counties within this Territory having a railroad station within the limits thereof, the county seat of which is not on the line of a railroad and in the county seat of which there are no public buildings or the same are not built of brick or stone or there is no record vault, the county seat of such counties may be re-located by a majority vote at a special, annual or general election, as hereinafter provided.

§ 2. PETITION.] Whenever the voters of any county having a

railroad station within its limits, the county seat of which is not located on the line of a railroad and in which there are no public buildings or the same are not constructed of brick or stone or there is no record vault, shall desire to re-locate such county seat they may present to the Board of County Commissioners thereof at any regular meeting, a petition signed by a majority of the voters of such county as shown by the last preceding general election, demanding that such question of re-location be submitted to the voters of the county and it shall thereupon be the duty of the commissioners to submit the same as follows: If such petition shall be presented to said board at a regular meeting, more than ninety days immediately preceding an annual or general election they shall order a special election and submit thereat such question of re-location; but if such petition shall be so presented in ninety days or less, immediately preceding an annual or general election, then such question shall be submitted to the voters at such annual or general election.

§ 3. ELECTION.] Notice of such election shall be given, polling places established, judges of election appointed and such elections shall be conducted in the same manner as elections held under Chapter twenty-seven (27), of the Political Code.

§ 4. BALLOTS.] The ballots for such elections shall be printed or written, or partly printed and partly written and shall be substantially as follows:

“For County Seat the City (or Town) of .....” and by such ballot the elector shall designate the city or town for which he desires to cast his vote for county seat.

§ 5. CANVASS.] The vote cast at such election shall be canvassed, certified and returned in the same manner as provided in said Chapter twenty-seven (27) of the Political Code, and the county commissioners shall within twenty days after such election, meet and open the returns and declare and enter upon the records the result thereof.

§ 6. MAJORITY VOTE.] The city or town receiving the highest number of votes, such number being not less than a majority of all the votes cast at such election, shall be the county seat.

§ 7. DONATION.] Any incorporated town or city being a candidate for the location of a county seat under this act, shall have power within the limitations prescribed by act of Congress of July 30th, 1886, to donate to the county for the purpose of providing public buildings either in its bonds or cash, upon a majority vote of its electors in favor thereof, a sum not exceeding five thousand dollars, and, except from a fund so provided, no public building, other than frame, nor any such buildings costing more than two thousand dollars shall be erected at the place to which any such county seat is removed within five years after such removal.

§ 8. REMOVAL OF OFFICES.] It shall be the duty of the several county officers whose offices are required by law to be kept at the county seat, to remove their respective offices, files, records, office fixtures, furniture and all public property pertaining to their respec-

tive offices, to the county seat designated by the electors, within sixty days after such county seat shall have been designated by the electors under the provisions of this act.

§ 9. EFFECT WHEN.] This act shall take effect from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

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

M. L. McCORMACK,  
Secretary of the Territory.

## CHAPTER 54.

### BOUNDARIES, RECORDS, ETC., OF CAMPBELL COUNTY.

AN ACT to Define and Establish the Boundaries of the County of Campbell and for Other Purposes.

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

§ 1. BOUNDARIES.] That the boundaries of the county of Campbell hereby are established and defined as follows:

Beginning at the southeast corner of township No. one hundred and twenty-five (125), north of range No. seventy-three (73), west of the fifth principal meridian and run thence north along the range line, between ranges seventy-two (72) and seventy-three (73) to the seventh (7th) standard parallel thence west along said seventh (7th) standard parallel to the centre of the main channel of the Missouri river, thence down said river along the centre of the main channel thereof to the sixth (6th) standard parallel, thence east along the sixth (6th) standard parallel to the said southeast corner of township No. one hundred and twenty-five (125), north of range No. seventy-three (73), west of the fifth (5th) principal meridian to the place of beginning.

§ 2. RECORDS.] That the county commissioners of the county of Campbell hereby are authorized and directed to transcribe or cause to be transcribed any and all records necessary to complete the records of said county, as hereinbefore established and defined, and to issue county warrants to pay the just proportion of the indebtedness of the county to which townships No. one hundred and twenty-five (125), one hundred and twenty-six (126), one hundred and twenty-seven (127) and one hundred and twenty-eight (128), north of range seventy-three (73), west, belonged prior to the passage and approval of this act, said indebtedness to be determined by and based upon the valuation as shown by the assessment roll for the year 1888.

§ 3. COMMISSIONER DISTRICTS.] That it shall be the duty of the

county commissioners of the county of Campbell, as defined in section 1 of this act, at their regular meeting in the month of April, 1889, to change the boundaries of the commissioner districts of said Campbell county so that each commissioner district shall contain the same number of votes, as near as may be, and the computations of votes shall be based upon the vote cast at the general election in 1888, and to establish at least three voting precincts in townships No. one hundred and twenty-five (125), one hundred and twenty-six (126), one hundred and twenty-seven (127) and one hundred and twenty-eight (128), north of range No. seventy-three (73) west, and said townships are hereby segregated from the county of McPherson and added to and made a part of the county of Campbell, as defined in section 1 of this act: *Provided*, however, that the portion of McPherson county hereby proposed to be segregated therefrom and added to Campbell county shall not be so segregated and added unless the question of segregation and annexation shall first be submitted to a vote of the electors living in said Campbell county as herein established and defined; said election to be held on the 7th day of May, A. D. 1889; and it hereby is made the duty of the county commissioners of said Campbell county at their regular meeting in April, 1889, to order said election, and said election shall be conducted as provided by law.

In case a majority of the legal voters of Campbell county, as now existing, shall vote in favor of said annexation and in case a majority of the legal voters of said township proposed to be segregated from McPherson county and added to and included in Campbell county shall vote in favor of said segregation and annexation, then this act shall be in full force and effect: The ballots to be used at said election shall be of white paper and shall have written or printed thereon the words "For annexation," "Against annexation." All expenses of said election shall be paid by Campbell county.

§ 4. VACANCY.] That any vacancy occasioned by the change of boundaries in county or township officers may be filled by appointment as in other vacancies.

§ 5. REPEAL.] That all acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, March 8th, 1889.

## CHAPTER 55.

## CORRECTING BOUNDARIES OF DAY COUNTY.

AN ACT to Correct and Define the Boundaries of Day County, Dakota.

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

§ 1. BOUNDARIES.) That all that district of county included within the following boundary lines, to-wit: Beginning at the point where the south line of township 120 intersects the western boundary line of Grant County, thence north along the western boundary of Grant and Roberts Counties to the northeast corner of township one hundred and twenty-four (124), range fifty-three (53), thence west along the north line of township one hundred and twenty-four (124), to the northwest corner of township one hundred and twenty-four (124), range fifty-nine (59), thence south along the west line of range fifty-nine (59) to the southwest corner of township one hundred and twenty (120), range fifty-nine (59), thence east along the south line of township one hundred and twenty (120) to the place of beginning, shall be and the same is hereby constituted and declared to be the County of Day.

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

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

Approved, March 8th, 1889.

## CHAPTER 56.

## AMENDING BONDING LAW FOR LAWRENCE COUNTY.

AN ACT to Amend Section two (2) of a Special Law passed by the Fifteenth Legislative Assembly of Dakota Territory, and approved March 9th, 1883, Entitled an Act to Authorize Lawrence County to Issue Bonds to be Used in Refunding and Paying Off its Outstanding Indebtedness and to Provide for the Payment of the Same.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota.*

§ 1. CONDITION OF BONDS.] That Section two (2) of a Special Act passed by the Fifteenth Legislative Assembly of Dakota Territory, approved March 9th, 1883, entitled an "Act to authorize Lawrence County to issue bonds to be used in refunding and paying off its outstanding indebtedness and to provide for the payment of the same," be amended so as to read as follows:

"§ 2. The bonds issued under this act shall be signed by the Chairman of the Board of County Commissioners of said Lawrence County and attested by the County Clerk or Auditor under the County Seal. Said bonds or any of them may be sold and disposed of by said county at not less than ninety (90) cents on the dollar; in which event the proceeds thereof, shall be used in redeeming, purchasing or paying off at not more than par, the outstanding indebtedness of said county, or said county may exchange said bonds or any of them for such outstanding indebtedness, but the said bonds and (and) the proceeds thereof shall be used for no other purpose whatever, except so much as shall be absolutely necessary to pay the expenses of preparing, issuing, advertising and disposing of the bonds to be used under this act, and all other unappropriated funds in the county treasury of said county, not actually required to pay the necessary current expenses of the county, shall be used to pay the said outstanding indebtedness of said county, and accruing interest upon the bonds herein authorized.

§ 3. IN EFFECT—WHEN. This act to take effect and be in force from and after its passage and approval.

## NOTE BY THE SECRETARY OF THE TERRITORY.

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

M. L. MCCORMACK,  
Secretary of the Territory.

## CHAPTER 57.

## CREATING THE COUNTY OF MEADE.

AN ACT to Create and Establish the County of Meade and for Other Purposes.

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

§ 1. BOUNDARIES.] That all that portion of the county of Lawrence in the territory of Dakota bounded and described as follows, to-wit: Beginning at the point on the southern boundary line of said Lawrence county where the range line between ranges five and six intersects said boundary line; thence north along the range line between ranges five and six to the line between townships three and four; thence west along said last mentioned township line to the range line between ranges four and five; thence north along said range line between ranges four and five to the northern boundary line of Lawrence county; thence east along the northern boundary line of Lawrence county to the one hundred and third meridian of longitude west from Greenwich; thence south along the said one hundred and third meridian to a point where said meridian intersects with the channel of the North Fork of the Cheyenne or Belle Fourche river; thence southeasterly, along down the said North Fork of the Cheyenne or Belle Fourche river on the line of the Great Sioux reservation to its confluence with the South Fork of the Big Cheyenne river; thence up said South Fork of the Big Cheyenne river along the line of the Great Sioux reservation to a point where it intersects with the boundary line of Pennington county; thence west along the boundary lines of Pennington and Lawrence counties to the place of beginning, be and the same is hereby erected into a county, by the name of Meade, and the territory included within such boundaries shall be and constitute the county of Meade.

§ 2. COMMISSIONERS.] That for the purpose of providing for the organization of said county of Meade there are hereby appointed commissioners to perform the duties hereinafter designated, Max Hoehn, Daniel P. Flood and W. C. Burton.

§ 3. ORGANIZATION OF BOARD.] Said commissioners herein appointed shall on or before the first Monday in April, 1889, meet at the city of Sturgis, in said Meade county, and shall qualify by taking an oath to faithfully discharge their duties as such appointees under this act and shall then enter upon the discharge of their duties, first selecting one of their number who shall act as chairman and one who shall act as clerk of said board of commissioners. They shall issue a notice of the election hereinafter provided for, one of such no-

tices at least to be posted in each of the precincts of said county, as they shall be by said commissioners established, and by publishing the same in each of the newspapers published in said county at least twenty (20) days before said election. Said commissioners shall, before issuing such notice, establish precincts in said county and polling places and appoint for each three judges of election in the same manner as judges of election are appointed by county commissioners under the general law.

§ 4. ELECTION.] An election shall be held in said county of Meade on the seventh (7th) day of May, 1889, at which time all county officers for said county, as provided by the general law, shall be elected, including three county commissioners which officers having qualified shall hold their offices until the first general election thereafter and until their successors shall have been elected and qualified, and at said election the qualified electors of said county are empowered to vote for and select the place of county seat by ballots, the place receiving the highest number of votes shall be the county seat, until otherwise changed under the provisions of the laws of the Territory.

§ 5. CANVASS.] The returns of said election shall be made to the commissioner hereinbefore designated, who shall meet at the city of Sturgis, in said county of Meade, on the 13th day of May, 1889, and shall canvass such returns and declare the result in the manner prescribed for county canvassing boards, and said commissioners shall issue their proclamation announcing who are elected to such county offices, and what place has been selected by the qualified voters as the county seat, and publish the same in a newspaper published in said county within ten days after said canvass.

§ 6. OFFICERS QUALIFY.] On or before the first (1st) Monday of June after said election the officers thus elected shall qualify, and shall then enter upon their duties, and the commissioners hereinbefore appointed shall after canvassing said returns of votes and issuing and publishing such proclamation, cease to exercise further power hereunder, and said commissioners hereinbefore provided for shall be entitled to receive for their services, to be paid by the said county of Meade, the same per diem as county commissioners are allowed under the general law of the Territory, but for not to exceed ten (10) days' services.

§ 7. BALLOT BOXES, ETC.] Said commissioners hereinbefore provided for shall have the power to provide ballot boxes and poll books for said election, and they may post the notices of such election or designate and employ some other person for that purpose, the reasonable expense of which shall be audited by the county commissioners of the County of Meade and allowed as a charge against said county.

§ 8. VACANCY.] In case of a failure to qualify by either of the commissioners hereinbefore appointed, or of a vacancy otherwise occurring, the remaining commissioners or commissioner shall have the

power to fill such vacancy by designating some elector or electors of said county of Meade to act, who shall qualify and take the oath herein prescribed.

§ 9. GENERAL LAW APPLICABLE.] The election under this act shall be conducted in the same manner as required by law in general elections, and no refusal or neglect on the part of any commissioner or other person to perform his duties in connection therewith shall in anywise affect the validity of said election.

§ 10. OFFICERS CONTINUED.] All justices of the peace and constables in office, as such, within the boundaries of the county organized under this act shall continue in office as such justices of the peace and constables in and for said county of Meade, for the remainder of their term and shall give bonds to the county organized under this act in the same amount and in the manner as they had previously given to the county of Lawrence.

§ 11. OTHER LAWS APPLICABLE.] In all matters not specially provided for in this act the officers of said county of Meade shall be governed as to their duties and emoluments and the said county shall be governed in all its affairs by the laws of the Territory applicable thereto.

§ 12. TRANSCRIPTS OF RECORDS.] The county commissioners of said county of Meade are hereby empowered and it is made their duty to procure transcripts of all records of Lawrence county that in their judgment may be necessary for the use and benefit of their county and it is hereby made the duty of all county officers having custody of any books, papers and records to allow such commissioners or any authorized person in their behalf full and free access to any and all such books, papers and records for the object and purpose herein named and for the completion thereof; *Provided* however, that such books, papers and records shall not be removed from their proper place or custody.

§ 13. PROPORTION OF OLD COUNTY DEBT.] The county of Meade organized under this act shall assume and pay, as hereinafter provided, a just proportion of the indebtedness of Lawrence county from which it is segregated, based upon the assessed valuation of said Lawrence county for the year 1888, and upon the proportion that the valuation within the county of Meade bears by the said assessment of 1888 to the valuation within the whole of Lawrence county; and it is hereby made the duty of the County Commissioners of both the counties of Meade and Lawrence to meet together at the county seat of Lawrence county, on the first day of July, 1889, and at such meeting they shall ascertain as near as may be the total outstanding indebtedness of Lawrence county on the first day of July, the date of the joint session provided for in this section, and from the total they shall make the following deduction, to-wit:

I. The amount of all sums due and payable to said Lawrence county for rents.

II. The amount of outstanding bonds given for public property

owned by and remaining within the limits of the county of Lawrence.

III. The amount of public funds on hand belonging to the county of Lawrence, on the day for which its outstanding indebtedness is ascertained by the joint Board of County Commissioners as provided for in this section, and not belonging to the special funds hereinafter mentioned, be the amount which the county organized under this act shall pay proportion of, in the proportion hereinbefore specified; and it shall be the duty of such commissioners to ascertain and fix the amount that Meade county shall assume and pay to Lawrence county.

§ 14. COUNTY FUNDS.] All moneys on hand at the time of the settlement provided for in the preceding section of this act, held by said Lawrence county, pertaining to special funds, such as fire, school, road funds and others belonging to the districts within the boundaries of Meade county, shall be turned over in full by the Treasurer of Lawrence county to the Treasurer of Meade county, and shall be duly receipted for by the latter and shall by him be placed to the credit of the districts within his county to which they properly belong.

§ 15. LAWRENCE COUNTY COMMISSIONERS.] The county commissioners of Lawrence county immediately after this act shall take effect, shall re-district their county into the districts provided for by the laws then existing, and shall fill the vacancies occasioned by such segregation in the manner provided by law for filling vacancies in the county, district or precinct offices.

§ 16. RE-NUMBERING DISTRICTS.] School and road districts within said Meade and Lawrence counties shall be re-numbered so as to make their numbers in each county run consecutively and the names of school districts may when necessary be changed.

§ 17. SCHOOL DISTRICT BONDS.] When the boundaries of any school district shall have been changed under and by virtue of this act, that portion of such district in which the school houses and other property remain, shall be holden for the bonds if any, issued by such school district, or such school township and if such portion shall have been attached to another school district, the school district to which such portion has been attached, shall be holden for the bonds, if any of the school district to which such portion formerly belonged.

§ 18. LIABILITY UNDISTURBED.] The validity of bonds issued by school districts prior to the division of said Lawrence county, shall in no wise be affected by such division, or by the re-numbering or re-naming of the school district that issued them.

§ 19. BONDS FOR LIABILITY.] The amount of indebtedness of Meade county organized under this act, as ascertained by the two boards of county commissioners, in compliance with the provisions of the preceding section, shall be paid to Lawrence county in the bonds of Meade county as hereinafter provided.

§ 20. FORM OF BOND.] Such bonds shall be dated on the first

day of July, 1889, as provided for in section thirteen of this act, and shall be issued for a period corresponding with the time or terms on which the obligations of the original county became due and payable and shall be payable at the same place and shall bear the same rate of interest as the obligations of the original county, said commissioners taking care to classify the liquidating bonds, issuing a due proportion of each, in proportion to each of Lawrence county's obligations bearing different rates of interest and places of payment, and said Lawrence county shall have authority to exchange such bonds for an equal amount of obligations of its own of the same class.

§ 21. **REGISTRY.**] The County Treasurer of Meade county issuing bonds under the provisions of this act, shall provide himself with a book to be called the "Bond Register" wherein he shall note the number and denomination of each bond issued by Meade county, the date of issue, when and where payable, with such other facts as the county commissioners of Meade county shall direct, which "bond register" when completed, shall be deposited with the County Clerk of said Meade county, and shall be and remain a part of the records of the same.

§ 22. **LIQUIDATING BONDS.**] The Board of County Commissioners of Meade county are hereby empowered and directed to issue such liquidating bonds in denominations as may be required by the county of Lawrence, not to exceed one thousand (\$1,000) dollars each, and deliver the same to the County Clerk of said Lawrence county, who shall receipt therefor, attaching the seal of his office to such receipts, and the County Clerk of Meade county shall enter such receipts at length upon the records of the county commissioners and note the same in the bond register of his county.

§ 23. **TAX.**] The Board of County Commissioners of Meade county shall for each year after the date of issue of such bonds, levy and cause to be collected a tax sufficient to pay the interest on said bonds as they shall become due, and also such sinking funds as shall correspond with the laws under which the bonds of Lawrence county were issued, sufficient to redeem said bonds at maturity; and as fast as such sinking fund shall become available, they shall redeem such bonds in the manner provided for redeeming bonds of Lawrence county; provided, however, that public notice shall be given by such Board of County Commissioners in a newspaper, if one be published within their county, setting forth that certain bonds, giving their number and otherwise describing them, will be redeemed by their county and naming the date of such redemption.

§ 24. **FUND PRESERVED.**] The money collected for the payment of interest or principal of such bonds, shall not be used for any other purpose until such bonds are redeemed; any surplus thereafter, shall be placed in the general county fund.

§ 25. **TIME.**] The authority of Lawrence county for the collection of revenue within the boundaries of Meade county, shall cease on July 1st, A. D. 1889, and all assessments and levies made by the

authority of Lawrence county, by its officers in the lawful performance of their official duties, affecting any of the territory embraced in the boundaries of Meade county, shall remain the same and shall be payable to and collected by the lawful authorities of Meade county only.

§ 26. JUDICIAL SUB-DIVISION.] Said county of Meade, shall as soon as its organization shall have been completed, constitute and be created a judicial sub-division of the judicial district to which it properly belongs at and before the time of its organization.

§ 27. TERMS OF COURT.] The Judge of the judicial district in which Meade county is created a legal sub-division of his district, under the provisions of the preceding section, shall appoint and hold terms of the district court at the county seat of said county at least one term each year.

§ 28. CHANGE OF VENUE.] In all actions or proceedings civil or criminal, the crime wherein was committed, or the disputed premises therein, be within the boundaries of the judicial sub-division created under the provisions of this act, and which properly belong to such sub-division under the provisions of the codes of civil and criminal procedure, the venue there of shall be changed to the county of Meade by the order of the court or the judge thereof, upon the demand of either party, which demand shall be served upon the opposite party, or his attorney if either can conveniently be found in this Territory, but if neither can conveniently be found in this Territory, then such change of venue may be made upon filing such demand with the Clerk of the District Court having the case upon its calendar.

§ 29. PROCESS REGULATED.] All process, writs, bonds, notices, appeals, recognizances, papers and proceedings, in actions changed to the county of Meade under this act, and issued and made returnable to the district court of the county of Lawrence prior to the creation of such legal sub-division of Meade county, shall be taken and considered as made taken and returnable to the district court of Meade county, and such bonds, recognizances and obligations shall be payable to said Meade county and recoverable upon and in the name of said Meade county, and all papers and certified copies of all proceedings had in such changed actions, shall be transmitted by the Clerk of the district court of Lawrence county to the Clerk of the district court of the County of Meade

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

NOTE BY THE SECRETARY OF THE TERRITORY.

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

M. L. McCORMACK,  
Secretary of the Territory.

## CHAPTER 58.

## BOUNDARIES OF RAMSEY COUNTY DEFINED.

AN ACT Defining the Boundaries of the County of Ramsey.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota.*

§ 1. BOUNDARIES.] That all that portion of the Territory of Dakota included within the boundaries hereinafter described shall constitute, be and remain the County of Ramsey, to-wit: Beginning at the intersection of the Thirteenth Standard Parallel with the range line between ranges 60 and 61, thence north on the range line between ranges 60 and 61 to the northeast corner of township 154, thence west on the township line between townships 154 and 155 to the northwest corner of township 154, thence north on the range line between ranges 61 and 62 to the northeast corner of township 158, thence west on the township line between townships 158 and 159 to the northwest corner of township 158 between ranges 64 and 65, thence south on the range line between ranges 64 and 65 to the southwest corner of township 157, thence west on the township line between townships 156 and 157 to the intersection of said line with the ninth guide meridian, thence south along said ninth guide meridian to its second intersection with the Mauvaise Coulee, thence along the centre of said Mauvaise Coulee to its intersection with the township line between townships 153 and 154, thence east on the township line between townships 153 and 154 to the range line between ranges 65 and 66, thence south on the range line between ranges 65 and 66 to the intersection of said range line with the Thirteenth Standard Parallel, thence east on the Thirteenth Standard Parallel to the south shore of Devils Lake, thence easterly along the south shore of Devils Lake to the southeastern extremity of said lake, thence east to the range line between ranges 61 and 62, thence north on the range line between ranges 61 and 62 to the Thirteenth Standard Parallel, thence east on the said Thirteenth Standard Parallel to the place of beginning.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith be and the same is hereby repealed.

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

Approved, Feb. 7th, 1889.

## DISTRICT ATTORNEY.

### CHAPTER 59.

#### APPOINTMENT OF SAME.

AN ACT to Amend Section 7, of Chapter 43, of the the General Laws of 1883.  
Entitled "An Act to Create the Office of District Attorney for the Several  
Counties of Dakota Territory, and for other Purposes."

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

§ 1. APPOINTMENT.] That section 7, of chapter 43, of the General Laws of 1883, entitled "An act to create the office of District Attorney for the several counties of Dakota Territory, and for other purposes" be and the same is hereby amended so as to read as follows: "Section 7. Each of the District Courts, whenever there shall be no district attorney for the county, or when the district attorney shall be absent from the court or unable to attend to his duties, may if the court shall deem it necessary, appoint by an order to be entered in the minutes of the court, some suitable person, an attorney at law, to perform, for the time being, the duties required by law to be performed by the district attorney, and the person so appointed shall thereupon be vested with all the powers of such district attorney for that purpose," and the judge of the court shall fix by order duly entered in the minutes of the court, his fee therefor which amount shall be allowed by the Board of the County Commissioners, and which amount shall be deducted from the salary of the district attorney. *Provided*, however, that nothing herein contained shall be construed as giving to the court the power to permanently fill vacancies in such office as to interfere with the powers invested by law in the Board of County Commissioners, to fill vacancies occurring in county offices, but such board shall possess and exercise such power in case of district attorneys.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, March 8th, 1889.

## DISTRICT COURT.

### CHAPTER 60.

#### CLERK AND DISTRICT ATTORNEY'S RECORD.

AN ACT to Provide for Making Reports and Disposal of Fines, Forfeitures, Penalties and Costs in Criminal Cases.

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

§ 1. RECORD.] It shall be the duty of the Clerk of the District Court and the District Attorney to each keep in a separate book, to be provided by the county for that purpose, a complete record of all fines, forfeitures, penalties and costs in each and every criminal action, pending in the district court in the county of which he is an officer, and shall also record therein the date and amount of each payment thereof.

§ 2. DUTY OF CLERK.] The Clerk of the District Court shall immediately upon the receipt of payment of any such fines, forfeitures, penalties or costs pay the same into the treasury of his county, taking a receipt therefor; and no bills for fees in any case shall be allowed by the Board of County Commissioners, until the Clerk shall have first filed with his bill the receipt from the County Treasurer, taken as aforesaid or until he shall state under oath that the costs have not been paid.

§ 3. DISTRICT ATTORNEY.] The District Attorney shall on the first Monday of each and every month, make out and file with the County Clerk or Auditor of the county, a complete list of all criminal cases in the district court wherein fines, forfeitures, penalties and costs have been paid, and the amount so paid.

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

Approved, March 5, 1889.

# ELECTIONS.

## CHAPTER 61.

### QUALIFICATION OF VOTERS.

AN ACT to Amend Sections 14 and 47, of Chapter 27, of the Political Code of the Territory of Dakota.

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

§ 1. OATH OF VOTER.] That the form of oath prescribed by section 14, chapter 27, of the political code of Dakota, shall be amended so as to read as follows: "You do solemnly swear (or affirm, as the case may be,) that you are twenty-one years of age; that you are a citizen of the United States, (or that you have declared your intention to become a citizen conformably to the laws of the United States and this Territory on the subject of naturalization, and have taken an oath to support the constitution of the United States;) that you have resided in the United States for one year; in this Territory for six months; three months in the county, and thirty days in the precinct next preceding this election, and that you have not voted at this election."

§ 2. QUALIFICATION.] Section number 47, of chapter 27, is hereby amended by striking out the whole thereof, and substituting in its place the following: Section 47. Every male person above the age of twenty-one years, who shall have been a resident of the United States for one year; of the Territory for six months; three months in the county; and thirty days in the precinct next preceding the election, who is a citizen of the United States, or who has declared his intention to become such, and shall have taken an oath to support the constitution of the United States, and persons who have been declared by law to be citizens of the Territory and shall have complied with the provisions of any law which is now or may in future be in force relating to the registration of voters, shall be entitled to vote, and all persons possessing the qualifications mentioned in this section, and who have resided in this Territory twelve months, shall be eligible to any office in the said territory; *provided*

however, that persons shall vote in the precincts where they reside and not elsewhere, *provided*, this act shall not be held to deprive any person of the right to vote who is now entitled thereto under the laws of this Territory.

§ 3. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

§ 4. EFFECT—WHEN.] This act shall be in force immediately after its passage and approval.

Approved, March 1st, 1889.

## ELEVATORS AND WAREHOUSES.

### CHAPTER 62.

#### RECEIPTS, EVIDENCE OF BAILMENT AND NOT SALE.

AN ACT Relating to Elevator and Warehouse Receipts for Grain Stored; to Protect Owners of Such Receipts, and Defining the Duties, Liabilities and Obligations of Persons Issuing the Same as to Delivery of Grain Thereupon.

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

§ 1. RECEIPTS, EVIDENCE OF BAILMENT.] Whenever any grain shall be delivered to any person, association, firm or corporation, doing a grain warehouse, or grain elevator business in this Territory, and receipts issued therefor, providing for a delivery of a like kind, amount and grade to the holder thereof in return, such delivery shall be a bailment and not a sale of the grain so delivered, and in no case shall grain so stored, be liable to seizure, upon process of any court in actions against such bailee, except actions by owners or holders of such warehouse receipts to enforce the terms of the same; but such grain shall at any and all times, in the event of the failure or insolvency of such bailee be first applied exclusively to the redemption of outstanding warehouse receipts for grain so stored with such bailee. And in such event, grain on hand in any particular elevator or warehouse, shall first be applied to the redemption and satisfaction of receipts issued from such warehouse.

§ 2. ELEVATORS CANNOT DENY.] No person, association, firm or corporation, doing a grain warehouse or grain elevator business in

this Territory, having issued a receipt for the storage of grain, as in section one, of this act provided, shall thereafter be permitted to deny that the grain represented thereby is the property of the person to whom such receipt was issued, or his assigns thereof, and such receipt shall be deemed and held, so far as the duties, liabilities and obligations of such bailee are concerned, conclusive evidence of the fact that the party to whom the same was issued or his assigns thereof, is the owner of such grain, and is the person entitled to make surrender of such receipt, and receive the grain thereby promised to be delivered.

§ 3. LARCENY.] Every person, and every member of any association, firm or corporation, doing a grain warehouse or grain elevator business in this Territory, who shall, after demand, tender, and offer, as provided in section nine, of chapter one hundred and thirty of the laws of this Territory, for the year 1887, wilfully neglect or refuse to deliver as provided by said section nine, to the person making such demand, the full amount of grain of the kind and grade which such person is entitled to demand of such bailee, shall be deemed guilty of larceny and shall on conviction thereof, be punished by a fine or imprisonment, or both as is prescribed by law for the punishment of larceny.

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

Approved March 8, 1889.

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## GOVERNOR'S MESSAGE.

### CHAPTER 63.

#### PRINTING ORDERED.

*RESOLVED by the Council and House of Representatives of the Legislative Assembly of Dakota:*

That there be printed, for distribution by the members of this legislative assembly, 1,500 copies of the Governor's Message. 400 copies to be furnished the Council; 600 copies to the House of Representatives and 500 copies for the executive office.

The expense of such printing, is hereby appropriated from the Territorial Treasury.

Approved, January 21, 1889.

## GRAND FORKS CITIZENS.

### CHAPTER 64.

#### REFUNDING OF MONEY LOANED FOR THE UNIVERSITY.

AN ACT Entitled an Act to Refund to the Citizens of Grand Forks for a Loan Advanced to Repair Damages Caused by a Storm, and for Other Purposes.

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

§ 1. TERRITORIAL BONDS.] That for the purpose of providing funds to refund the citizens of Grand Forks for funds advanced in rebuilding the addition, as hereinafter specified, of the University of North Dakota, at Grand Forks, Dakota Territory, the Territorial Treasurer is hereby authorized and empowered, and it is made his duty, to prepare for issue twenty-two thousand and seven hundred (\$22,700) dollars of Territorial bonds, running for a term or period of twenty years, and payable at the option of the Territory after a term of ten years, and bearing interest at the rate of not more than five per cent. per annum, with coupons attached, made payable semi-annually on the first day of July and January each years. Such bonds shall be executed, under the seal of the Territory, by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory. *Provided*, that the bonds of the Territory of Dakota, issued for the purposes hereinbefore provided for, shall, together with the interest thereon be assumed and paid in case of the division of the Territory, by that State or Territory in which the said University is located.

§ 2. SEALED BIDS.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, and upon request of the Board of Regents, he shall give public notice for thirty days in two newspapers of general circulation, one of which shall be published in the city of New York, and said bonds shall be sold to the highest bidder for cash.

§ 3. 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 collected, such sum as shall be sufficient to pay such interest and

exchange thereon; and after ten years from the first day of May, 1889, and in addition thereto, a sinking fund tax shall be annually levied sufficient to retire and pay said bonds at their maturity. And it shall be the duty of the Territorial Treasurer to pay promptly on the first day of July and January of each year, such interest as shall then be due, and to purchase said bonds at their market value, and retire and cancel the same, with the sinking fund tax, as the same shall be received; 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.

§ 4. APPROPRIATION FOR INTEREST.] If, for any reason, the Territorial Treasurer shall not have in his hands sufficient funds herein provided, to pay the interest upon such bonds when due, he shall pay such 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 become 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, at the time it falls due out of said funds.

§ 5. FUND REPLACED.] All moneys belonging to the general Territorial fund applied by said Treasurer in payment of the interest on said bonds, shall be replaced from the special tax levied to pay the same.

§ 6. APPROPRIATION.] There is hereby appropriated out of the Territorial treasury, all the funds realized by the sale of the bonds provided for in this act.

§ 7. WARRANTS.] It shall be the duty of the Auditor of the Territory, upon the application of the Board of Regents, or a majority thereof, and on due and sufficient proof of any claim presented under the provisions of this act, accompanied by proper vouchers, duly verified, showing that such claimants are entitled thereto, to draw warrants on the Territorial Treasurer, for the purpose of carrying out the provisions of the aforesaid act, viz: To refund to the citizens of Grand Forks, for a loan to rebuild and repair damages to the addition to the University building of North Dakota, inflicted by storm, in June 1887—\$20,700; deficiency in building originally, \$2,000.

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

COUNCIL CHAMBER,  
BISMARCK, D. T., March 8, 1889. }

I hereby certify that the within act, together with the objections of his Excellency, Governor Louis K. Church, was returned to the Council, the House in which it originated, on the 8th day of March, 1889. That the objections of the Governor were read at length and entered upon the journal, that thereupon the said bill was laid over for consideration, until March 8th, 1889, and upon that day the matter coming up for consideration, the question was put, "Shall this bill pass, the objections of the Governor to the contrary, notwithstanding?" The roll was called and the bill 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.

HOUSE OF REPRESENTATIVES,  
BISMARCK, Dakota, March 8, 1889. }

I hereby certify that the within Act, together with the objections of his Excellency, Governor Louis K. Church was received by the House from the Council, that being the House in which it originated, on the 8th day of March, 1889. That the objections of the Governor were read at length and entered upon the Journal; that thereupon the said bill came before the House for consideration and the question was put, "Shall this bill pass, the objections of the Governor to the contrary, notwithstanding." The roll was called and the bill did pass, more than two-thirds of the members present and voting, voting in the affirmative.

Attest: JNO. G. HAMILTON,  
Chief Clerk.

H. H. KEITH,  
Speaker of the House.

## GROTON COLLEGE.

## CHAPTER 65.

## CHANGE OF NAME.

AN ACT Entitled "An Act to Change the Name of Groton College."

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

§ 1. NAME CHANGED.] That the name of the corporation heretofore incorporated under the laws of the Territory of Dakota, as the "Groton College," located at the city of Groton, in said Territory, is hereby changed to "Groton Collegiate Institute."

§ 2. BENEFIT AND LIABILITY.] That all property heretofore owned by the Groton College shall inure to the benefit of the Groton Collegiate Institute, and the said Groton Collegiate Institute shall be liable for all debts, obligations and liabilities existing against said Groton College.

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

Approved, March 7, 1889.

## INCORPORATION.

### CHAPTER 66.

#### HOW CERTAIN TOWNS MAY BE INCORPORATED.

AN ACT to Amend Section one (1), Article nineteen (19), Chapter seventy-three (73), of the General Laws of 1887.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota.*

§ 1. TOWNS INCORPORATED.] That Section one (1), of Article nineteen (19), Chapter seventy-three (73), of the General Laws of 1887, be and the same is hereby amended so as to read as follows:

Any incorporated town in this Territory, having a population of not less than five hundred inhabitants, may become incorporated as a city in like manner as in this act provided. But in all such cases the president and trustees, and all other officers of such town, shall respectively perform the same duties relative to such change of organization as is required to be performed by the mayor, council and other officers of cities until the succeeding city election.

§ 2. EFFECT WHEN.] This act shall take effect and be enforced from and [after] its passage and approval.

Approved, March 8, 1889.

## INTOXICATING LIQUORS.

## CHAPTER 67.

## AMENDING ACT OF 1887.

AN ACT to Amend Section two (2), of Chapter seventy-one [71], of the Laws of 1887, Relating to the Sale of Intoxicating Liquors.

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

§ 1. AMENDING REPEAL.] That Section two (2), of Chapter seventy-one (71), of the Laws of 1887, relating to the sale of intoxicating liquors, be, and the same is hereby amended to read as follows: All acts and parts of acts both special and general, inconsistent with this act are hereby repealed.

§ 2. LICENSE NOT LESS THAN 6 MONTHS.] No license shall be granted for the sale of intoxicating liquors for a less period than six (6) months.

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

Approved, February 18, 1889.

## CHAPTER 68.

## STRIKING OUT PART OF SECTION.

**AN ACT to Amend Section One (1,) of Chapter Seventy-two (72,) of the Laws of 1887, Relating to the Sale of Intoxicating Liquors.**

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

§ 1. That section one (1,) of chapter seventy-two (72,) of the laws of 1887, relating to the sale of intoxicating liquors be and the same is hereby amended by striking out all of said section after the word "Chapter" in the sixth (6) line thereof.

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

Approved, February 18, 1889.

## INSURANCE.

## CHAPTER 69.

## AMENDMENT OF LAW.

**AN ACT Amending Sections 2, 9, 10, 12, 27, 29, 32 and 33, of Chapter 69, of the Session Laws of 1885, Relating to Insurance.**

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

§ 1. POWER.] That Section 2, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 2. All companies heretofore organized or organized under this act shall have power to effect re-insurance of any risks taken by them respectively.

§ 2. INVESTMENT OF CAPITAL.] That Section 9, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 9. It shall not be lawful for any insurance company organized under the laws of this Territory, to invest its capital and the

fund accumulated in the course of its business, or any part thereof, except in bonds or mortgages on improved unincumbered real estate within the Territory of Dakota, worth double the sum loaned thereon exclusive of buildings, unless such buildings are insured and the policies transferred to the company, and also such real estate as shall be requisite for its convenient accommodation in the transaction of its business, and also in the bonds of the Territory, or stocks or treasury notes of the United States and also the bank stock of national banks, and also in the stocks and bonds of any county or incorporated city in the Territory, authorized to be issued by the Legislature, to loan the same, or any part thereof, on the security of such stocks or bonds, or treasury notes, or upon bonds or mortgages, as aforesaid, and to change and re-invest the same in like securities as occasion may from time to time require; but the surplus money over and above the capital stock of such insurance company, incorporated under any law of this Territory, may be invested in or loaned upon the pledge of public stocks or bonds of the United States or of any of the states, or stocks, bonds or other evidence of indebtedness of any solvent dividend paying institution, incorporated under the laws of this Territory, or United States, except their own stock, provided, always that the market value of such stocks, bonds or other evidence of indebtedness, shall be, at all times during the continuance of such loan, at least ten per centum more than the amount loaned thereon.

§ 3. PURCHASE, ETC., OF REAL ESTATE.] That Section 10, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 10. No company organized by or under the laws of this Territory, shall purchase, hold or convey real estate except for the purpose and in the manner herein set forth to-wit:

1. Such as shall be requisite for its convenient accommodation in the transaction of its business; or 2. Such as shall have been mortgaged to it in good faith as security for loans previously contracted or for money due; or 3. Such as shall [have] been conveyed to it in satisfaction of debts previously contracted in legitimate business, or for money due, or 4. Such as shall have been purchased at sales upon judgments, decrees or mortgage foreclosures obtained or made for such debts. And it shall not be lawful for any such company to purchase, hold or convey real estate in any other case or for any other purpose.

§ 4. BY-LAWS.] That Section 12, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 12. The incorporators or directors, as the case may be, of any company organized under this act, or incorporated under any law of this Territory, shall have power to make such by-laws, not inconsistent with the laws of this Territory, as may be deemed necessary for the government of its officers and conduct of its affairs, and the same, when necessary, to alter and amend. And they and their successors may have a common seal and change and alter the same at their pleasure.

§ 5. APPLIES TO WHAT.] That Section 27, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 27. The provisions of this act shall apply to all insurance companies, associations or partnerships, incorporated or organized under the laws of this Territory, or of any other state or territory of the United States, or any foreign government, transacting the business of fire, cyclone, tornado, hail, marine, live stock, or any other species or kind of insurance upon property in this Territory, and all such companies shall make annual statements of their condition and affairs to the Auditor, in the same manner and the same form as similar companies organized under the laws of this Territory.

§ 6. EXAMINATION BY AUDITOR.] That Section 29, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 29. It shall be the duty of the Territorial Auditor whenever he shall deem it expedient to do so, in person or by one or more persons appointed by him for that purpose not officers or agents of, or in any manner interested in any insurance company doing business in this Territory, except as policy holders, to examine into the affairs of any company incorporated under any law of this Territory, or companies of other states or territories, or any foreign companies doing business by their agents in this Territory; it shall be the duty of the officers or agents of any such company doing business in this Territory to cause their books to be opened for the inspection of the Auditor or persons so appointed, and otherwise to facilitate such examinations so far as it may be in their power to do, and pay all reasonable expenses incurred therein, in no case to exceed ten dollars per diem. And for that purpose the said Auditor or person or persons appointed by him, shall have the power to examine, under oath, the officers and agents of any such company, relative to the business of said company and whenever the said Auditor shall deem it for the best interests of the public so to do, he shall publish the result of such investigation in two newspapers in this Territory.

§ 7. TRANSFER OF STOCK.] That Section 32, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 32. No transfer of the stock of any company organized under this act, or incorporated under any law of this Territory, made during the pendency of any such investigation, will release the party making the transfer from his liability for losses which may have occurred previous to the transfer.

§ 8. REVOCATION OF CERTIFICATE.] That Section 33, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 33. And whenever it shall appear to said Auditor from examination or from the report of the person or persons appointed by him, that the affairs of any company incorporated by the laws of this Territory, or of any other state or territory, or any foreign government are in an unsound condition, he shall revoke the certificates granted in behalf of said company, and shall cause a notification thereof to be published in any newspaper of general circula-

tion published at the Capital, and mail a copy thereof to each agent of the company. The agent or agents of such company, shall, after such notice, be required to discontinue the issuing of new policies and the renewal of any policies previously issued.

§ 9. MUTUAL COMPANIES.] That section 41 chapter 69, laws of 1885, be and the same is hereby amended to read as follows: "Section 41, article 1. Any number of persons not less than twenty-five (25) residing in this Territory, who shall collectively own real estate herein of not less than twenty-five thousand dollars, (25,000) in value, may associate themselves and become incorporated for the purpose of mutual insurance against loss or damage by hail, tornadoes, cyclones, and hurricanes by complying with the provisions of this section.

Article 2. They shall organize by adoption and signing articles of incorporation, which shall contain:

1. The name of the corporation, which shall not be the same as that previously assumed by any other corporation in the Territory.

2. The general nature of its business and the place of the principal office or headquarters.

3. The names and residence and the value of the real estate owned by the persons respectively, so associating to form such corporation.

4. The time of the commencement, and the period of the duration of such corporation.

5. The number, names and places of residence of the directors, and of the president, secretary and treasurer of such corporation for the first year of its existence, and the time and place of the election of their successors.

Article 3. Such articles shall be acknowledged by the persons signing the same in the manner by law provided for the acknowledgment of deeds, and shall be filed for record in the office of the Territorial Auditor.

Article 4. The Territorial Auditor shall before filing such articles submit the same to the Attorney General who shall examine said articles, and if he find the same to have been executed in conformity to law, he shall endorse the word "Approved" thereon, and date, sign and return the same to the Auditor of the Territory who shall thereupon file the same in the records in his office and shall issue under his hand and official seal, and deliver to the said corporation his certificate to the effect that such corporation has been duly incorporated under the provisions of this act, and is authorized to transact business from and after the date thereof. Such certificates shall be recorded in the office of the Register of Deeds of the county wherein such corporation shall have its principal office, and said certificate and records and any certified copies of such records shall be received in all the courts of this Territory as *prima facie* evidence that such corporation has been duly organized and created under the laws of the Territory of Dakota.

Article 5. Upon the issuance of such certificate, the persons therein named shall be and become a corporation, and authorized to transact the business of mutual insurance against loss or damage to property by hail, tornadoes, cyclones and hurricanes, in such manner and upon such terms as in and by its by-laws may be provided. It shall have perpetual succession, sue and be sued, contract and be contracted with, implead and be impleaded by its corporate name in any of the courts of this Territory, and shall possess the usual powers and be subject to the usual duties of corporations.

Article 6. The general management of the business of said corporation shall be vested in directors, each of whom shall during his term of office, be a policy holder in said corporation, such directors shall be elected annually and shall hold their office for one year, and until their successors are elected and qualified. The directors shall choose from their own number a president, secretary and treasurer, whose respective terms of office shall be one year, and whose duties and compensation shall be such as may be in the by-laws of the corporation provided.

Article 7. Such corporation before commencing its business shall prepare and adopt by-laws which shall describe the duties of its officers, the manner, place and time of electing them, the directors, the scheme and manner of transacting its business, and such other rules and regulations as may be deemed essential for the government of the corporation and the management of its affairs. Such by-laws shall not be amended, changed, suspended or repealed except in the manner therein set forth, and a copy of the same and of any subsequent amendments thereto or changes therein shall be by the secretary forthwith filed with the Territorial Auditor, who shall safely keep the same in his office.

Article 8. Such corporation is authorized to issue policies of insurance signed by its president and secretary agreeing to pay to the person assured thereby all loss and damage to the property insured which he may sustain by hail, tornadoes, cyclones and hurricanes for a period of not more than five (5) years, and not exceeding in amount the sum specified in such policy.

Article 9. Every holder of a policy of such insurance shall be a member of the corporation. He shall have the right to participate in the election of directors and shall be eligible to election to any office in such corporation; he shall be liable to the corporation for his pro rata share of all losses and damages by hail, tornadoes, cyclones and hurricanes sustained by any other member, and also for his pro rata share of the expenses of the management of the business of such corporation, and shall be bound and subject to the by-laws thereof.

Article 10. The corporation shall in and by its by-laws provide for the manner in which such insurance shall be effected and the terms and conditions thereof, the time and manner in which losses by it sustained under its policy of insurance shall be determined, proved,

adjusted and paid, the time and manner in which assessments shall be made upon its members for their respective pro rata share of such losses and the time, manner and place in which and the person to whom such assessment shall be paid, it shall also, in and by its by-laws, provide such other regulations, terms and conditions as it may be necessary for effectively and fully carrying out its scheme of insurance and the said by-laws in force at the time of the date of any policy of insurance issued by the corporation shall have the force and effect of law in the determination of all questions and claims arising under such policy between the holder thereof and the said corporation.

Article 11. The said corporation shall also in and by its by-laws provide the manner, terms and conditions upon which any member thereof may withdraw or be suspended or expelled therefrom.

Article 12. The secretary of the corporation shall prepare and submit to the members thereof, at each annual meeting, a detailed statement of the condition of such corporation and its transactions for the preceding year, showing the date and number of policies issued, to whom the same were issued, and the amount respectively insured thereby, the number of assessments made during the year and the amount actually paid in upon each assessment respectively, the losses sustained during the year and whether the same have been paid or adjusted or remain unpaid or unadjusted or are disputed, the number of members of the corporation, the number of new members received during each year, their names, and residence of members who are withdrawn or been suspended or expelled from the corporation during the year, the policies and respective numbers thereof which have been cancelled during the year, and itemized statement of the expenses of such corporation during each year, and of the amount and condition of its funds and such other matters as may be of interest to the members. A copy of such annual statement shall within thirty (30) days after such meeting be filed and preserved by the Territorial Auditor.

Article 13. No corporation formed under this act shall continue for a longer period than thirty years.

Article 14. No corporation formed under this act shall insure any property outside the Territory of Dakota nor any property other than detached dwellings and farm buildings and their contents, and live stock while on the premises or running at large, and hay, grain and other farm products while growing or while in the shock, stack, bin, crib or granary upon such premises nor shall it insure any property whatever in any incorporated city or village.

Article 15. All the books, papers and files of such corporation shall at all times be open to the examination of any member thereof or his agent or attorney, and any such members, agent, or attorney shall at all times have the right to make such copies of such books, papers and files as he may wish to have.

Article 16. The articles of association may be amended in any

respect which might have been lawfully made a part of such original articles at any annual meeting of the members of the corporation, upon a vote of two-thirds of the members present at such meeting.

§ 10. PROOF OF PUBLICATION.] That section 16, of chapter 69, laws of 1885, be and the same is hereby amended by adding to said section the following words: "And the proof of publication herein required shall be filed with the Territorial Auditor within three months from the time of the filing of the annual statement."

§ 11. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

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

Approved March 8th, 1889.

## INTEREST.

### CHAPTER 70.

#### RATE LIMITED TO TWELVE PER CENT.

AN ACT to Amend Section Eleven Hundred of the Civil Code.

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

§ 1. RATE OF INTEREST.] That Section Eleven Hundred of the Civil Code, is hereby amended to read as follows:

SECTION 1100. Any person or corporation contracting to receive a greater rate of interest, or discount than twelve per cent upon any contract, verbal or written, shall forfeit the whole of said interest so contracted to be received; and shall be entitled only to recover the principal sum due, and if any part of such interest shall have been paid, it may be recovered in an action for that purpose, or set off in an action to recover such principal.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 5th, 1889.

## CHAPTER 71.

## LIMIT ON TERRITORIAL WARRANTS.

AN ACT Providing Interest at Seven Per Centum Per Annum on Territorial Warrants Hereafter Issued.

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

§ 1. SEVEN PER CENT.] All Territorial Warrants hereafter drawn by the proper authorities, shall draw interest after presentation for payment at the office of the Territorial Treasurer, and indorsement by that officer as "not paid for want of funds," at the rate of seven per centum per annum.

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

Approved, March 2, 1889.

## JUDICIAL DISTRICTS.

## CHAPTER 72.

## TURNER COUNTY IN THE FOURTH.

AN ACT Entitled An Act to Include Turner County Within the Boundaries of the Fourth Judicial District and Fixing the Time for Holding Court Therein.

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

§ 1. TURNER COUNTY.] The County of Turner is hereby included within the boundaries and made part of the Fourth Judicial District, and said county shall constitute a judicial sub-division and the terms of the District Court shall be held therein as follows, to-wit: The second Tuesday in March and the third Tuesday in October in each year.

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

Approved, Jan. 16 1889.

## CHAPTER 73.

## BOUNDARIES OF THE EIGHTH DISTRICT.

AN ACT Entitled An Act to Define the Boundaries of the Eighth Judicial District and to Provide for a Judicial Sub-Division Therein.

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

§ 1. EIGHTH DISTRICT.] The Eighth Judicial District of the Territory of Dakota, shall consist of the Counties of Grand Forks, Walsh, Pembina, Nelson, Cavalier, Ramsey and Towner.

§ 2. TOWNER ATTACHED TO RAMSEY.] The County of Towner is hereby attached to said County of Ramsey for judicial purposes, and said Counties of Ramsey and Towner shall constitute one judicial sub-division until otherwise provided by law, or changed by order of the court.

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

Approved, January 26th, 1889.

## CHAPTER 74.

## THE SIXTH DISTRICT.

AN ACT to Amend An Act Entitled, "An Act to Define the Sixth Judicial District of the Territory of Dakota, to Sub-Divide the Same, to fix the Terms of Court Therein, and to Attach the County of Pierce to the County of McHenry for Judicial Purposes.

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

§ 1. MCHENRY STRICKEN OUT.] That Section ten of Chapter 78, of the General Laws of the Seventeenth Legislative Assembly of 1887, be amended by striking out the word "McHenry" when it occurs in said section.

§ 2. THIRTEENTH SUB-DIVISION.] That the Thirteenth Sub-Division of the Sixth Judicial District is hereby created and shall consist of the Counties of McHenry and Pierce. That the District Court for this sub-division shall be held at Towner, in said County of McHenry at such time as the judge of said court may direct.

§ 3. PIERCE ANNEXED.] The County of Pierce is hereby constituted a part of and included within the boundaries of the Sixth Judicial District, and is hereby attached to the County of McHenry for judicial purposes.

§ 4. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

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

Approved, Feb. 4, 1889.

## CHAPTER 75.

### SEVENTH JUDICIAL DISTRICT.

AN ACT Providing for the Sub-division of the Seventh Judicial District of the Territory of Dakota and Fixing the Terms of Court Therein.

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

§ 1. COUNTY INCLUDED IN—TERMS WHEN HELD.] The County of McPherson, in the Seventh Judicial District of the Territory of Dakota, shall constitute one judicial sub-division of the Seventh Judicial District and a term of court shall be held at the county seat of McPherson County, commencing on the first Tuesday in June in each year and all actions arising from said county and now pending in the judicial sub-division in which said county is located shall be triable in said McPherson County.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

#### COUNCIL CHAMBER,

BISMARCK, February 8th, 1889. }

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

Attest: R. E. WALLACE,  
Chief Clerk.

SMITH STIMMEL,  
President of the Council.

#### HOUSE OF REPRESENTATIVES,

BISMARCK, February 8th, 1889. }

I hereby certify that the within act together with the objections of his Excellency, Governor Louis K. Church, was received from the Council on the 8th day of February, 1889; that the objections of the Governor were read at length and the question stated, "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 house voting in the affirmative.

Attest: JOHN G. HAMILTON,  
Chief Clerk.

H. H. KEITH,  
Speaker of the House.

## CHAPTER 76.

## SUB-DIVISION OF THE SIXTH DISTRICT.

AN ACT Constituting LaMoure County as one Judicial Sub-Division in the Sixth District, to fix the Terms of Court Therein, and for other purposes.

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

§ 1. LAMOURE COUNTY.] That the County of LaMoure in the Territory of Dakota, shall constitute one judicial sub-division in the Sixth Judicial District, and the District Court therein shall be held at the county seat of said LaMoure county at such time as the judge of said court may direct.

§ 2. ACTIONS PENDING.] All actions or proceedings, civil or criminal now pending in the sub-division formerly composed of the Counties of Stutsman and LaMoure, which properly belong in said County of LaMoure under the code of civil and criminal procedure, shall be changed to said County of LaMoure, upon the written stipulation of the attorneys of record in such action or proceeding, or, upon motion by order of the judge of said court.

§ 3. PROCESS, ETC.] All process, writs, bonds, notices, appeals, continuances, recognizances and proceedings in actions arising or properly belonging in said County of LaMoure, issued and made returnable to the district court in said Stutsman county, as fixed by law prior to the passage of this act, shall be taken and considered as made, taken and returnable to the district court for said LaMoure county as fixed by this act.

§ 4. REPEAL.] All acts and parts of acts, in conflict with the provisions of this act, are hereby repealed.

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

Approved, February 11, 1889.

## CHAPTER 77.

## SEVENTH DISTRICT SUB-DIVISION.

AN ACT Providing for a Sub-division of the Seventh Judicial District of the Territory of Dakota.

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

§ 1. COUNTIES INCLUDED IN—TERMS—WHEN HELD.] That the counties of Walworth and Campbell, in the Seventh Judicial District, of the Territory of Dakota, shall constitute one judicial sub-division of the Seventh Judicial District, and a term of court shall be held at the county seat of Walworth County at such time as the court may direct.

§ 2. REPEAL.] All acts and part of acts in conflict with the provisions of this act are hereby repealed.

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

Approved February 15th, 1889.

## CHAPTER 78.

## FIRST DISTRICT SUB-DIVISION.

AN ACT Creating and Defining a Sub-Division of the First Judicial District.

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

§ 1. COUNTIES INCLUDED, TERMS OF COURT.] That the Counties of Butte, Harding, Burdick and Ewing, in the Territory of Dakota, shall constitute one sub-division of the First Judicial District, and that the district court in and for this sub-division shall be held at the county seat of Butte county at such time or times as the judge of said court shall appoint, at least one term in each year.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. EFFECT—WHEN.] This act shall take effect from and after its passage and approval.

Approved, February 26, 1889.

## CHAPTER 79.

## ATTACHING COUNTIES TO DISTRICTS.

AN ACT to Detach the Counties of Stanley, Sterling and Nowlin from the Seventh Judicial District and to Attach Them to the Fifth Judicial District and to Hughes County for Judicial Purposes, and also to Detach the Counties of Pratt and Presho from Said Seventh District and to Attach them to the Second Judicial district and to Brule County for Judicial Purposes.

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

§ 1. ATTACHED TO FIFTH.] That the counties of Stanley, Sterling and Nowlin be and the same are hereby detached from the Seventh Judicial district and attached to the Fifth Judicial District and to the County of Hughes for judicial purposes.

§ 2. ATTACHED TO THE SECOND.] That the counties of Pratt and Presho be and the same are hereby detached from the Seventh Judicial District and attached to the Second Judicial District and to the County of Brule for judicial purposes.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved February 27, 1889.

## CHAPTER 80.

## SUB-DIVISION OF THE SIXTH.

AN ACT Creating and Defining a Sub-Division of the Sixth Judicial District.

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

§ 1. ROLETTE COUNTY A SUB-DIVISION.] That the County of Rolette, in the Territory of Dakota, shall constitute the Fourteenth Sub-Division of the Sixth Judicial District, and that the district court in and for this sub-division shall be held at the county seat of said Rolette county at such time or times as the judge of said court shall appoint, at least one term in each year.

§ 2. REPEAL. All acts and parts of acts, in conflict with this act, are hereby repealed.

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

Approved March 4, 1889.

## LIMITATION.

### CHAPTER 81.

#### NOT TO APPLY TO CERTAIN RISKS OF INSURANCE.

AN ACT to Amend Section 409, of Chapter 8, of the Civil Code.

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

§ 1. INSURANCE POLICY.] That the first paragraph of section 409, of chapter 8, of the civil code of Dakota be amended by adding thereto as follows: *Provided*, however, that the above limitations shall not apply to the policy risks of insurance companies on which no loss has occurred, or the notes, bonds or debentures of any loan or trust company organized under the provisions of this chapter where the payment of such notes, bonds or debentures shall be secured by the actual transfer of real estate by trust deed or mortgage for the payment of such notes, bonds or debentures, which said real estate so transferred shall be of twice the value of the par value of such notes, bonds or debentures:

*Provided* further, that said limitation shall not apply to any loan or trust company's guarantee for payment after transfer of any notes, bonds or debentures where the same is secured by trust deed or mortgage as above stated.

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

Approved February 27, 1889.

## LEGISLATIVE ASSEMBLY.

### CHAPTER 82.

#### PROVIDING FOR ROOMS FOR COMMITTEES.

JOINT RESOLUTION Relative to a Provision by the Territorial Auditor of Rooms for the Committees of the Eighteenth Legislative Assembly, and the Furnishing, Heating and Lighting the Same.

*RESOLVED*, by the House of Representatives, the Council Concurring.

That the Auditor of the Territory be, and he is hereby authorized to secure the necessary rooms, fuel, lights, stationery, furniture, etc. for the use of the Committees of the Legislative Assembly, and a janitor to care for said rooms. There is hereby appropriated out of any money in the Treasury not otherwise appropriated, a sum sufficient to carry out the provisions of this resolution.

Approved.

### CHAPTER 83.

#### APPROPRIATION FOR STAMPS.

JOINT RESOLUTION Providing Postage Stamps for Members of the 18th, Legislative Assembly.

*Be it Resolved by the Council and House of Representatives of the Territory of Dakota.*

That there be, and hereby is, appropriated to each Member of the Eighteenth Legislative Assembly, the sum of ten dollars (\$10) out of any funds in the Territorial Treasury not otherwise appropriated, to be used in the purchase of postage stamps for official use by said members.

Approved, January 28th, 1889.

## CHAPTER 84

## COMPENSATION OF MINOR OFFICERS.

## JOINT RESOLUTION Providing for the Appointment and Compensation of Minor Officers of the Eighteenth Legislative Assembly.

*Be it Resolved by the House, the Council Concurring;*

That the speaker of the house and the president of the council of the 18th, legislative session are hereby authorized to appoint from time to time such clerks of committees, stenographers, postmasters and employes for their respective bodies, in addition to those already provided for by law, as may from time to time in their judgment be necessary for the transaction of the business of the respective houses.

That the compensation to be paid such subordinate employes shall be: For the assistant and bill clerks of the respective houses, six dollars per day; for all clerks of committees and assistant enrolling and engrossing clerks of the respective bodies, five dollars per day; for stenographers, six dollars per day; for pages, two dollars per day; for assistant sergeant at arms, postmasters, janitors and doorkeepers, five dollars per day; for other employes not expressly named, four dollars per day. There is hereby appropriated out of the Territorial treasury a sum sufficient to pay for the services of persons so employed. The respective amounts due each clerk, officer or employe so employed and appointed shall be audited and paid out of the Territorial treasury upon an account certified by the presiding officers of the houses respectively, attested by the chief clerks thereof, and when so audited and attested the Territorial Auditor is hereby authorized and directed to draw the Territorial warrants therefor upon the treasurer, who is hereby authorized and empowered to pay the same; *Provided*, if any clerk or employe be found incompetent to discharge the duties of his position, it shall be the duty of the respective presiding officers and they are hereby empowered to discharge such person and fill the vacancy so created.

I hereby certify that on the 29th day of January, 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 of the House.

H. H. KEITH,  
Speaker of the House.

COUNCIL CHAMBER,  
BISMARCK, D. T., January 31, 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 30th day of January, 1889; that the objections of the Governor were read at length and the question stated, "Shall this act be passed, the objections of the Governor to the contrary, notwithstanding." The roll of members was called and the act did pass, more than two-thirds of the members of the Council present and voting, voting in the affirmative.

Attest: R. E. WALLACE,  
Chief Clerk.

SMITH STIMMEL,  
President of the Council.

## CHAPTER 85.

## FURNISHING LAWS TO MEMBERS.

**JOINT RESOLUTION** Requesting the Secretary to Furnish Certain Codes for the Members of the Legislative Assembly.

*RESOLVED, by the Council, the House of Representatives Concurring.*

That the Secretary of the Territory be, and is hereby requested to furnish to each Member of the Legislative Assembly, a copy of the Compiled Laws, and also a copy each of all Session Laws published since 1887, which the Secretary may have.

Approved January 28, 1889.

## CHAPTER 86.

## FURNISHING LAWS TO MEMBERS.

**AN ACT** to Amend Joint Resolution Approved January 28, 1889, Authorizing the Secretary to Furnish Laws to the Members of the Eighteenth Legislative Assembly.

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

§ 1. **AMENDMENT.**] That the joint resolution approved January 28, 1889, authorizing the Secretary of the Territory to furnish laws to the members of the eighteenth legislative assembly be and the same is hereby amended by striking out the figures "1887" wherever they occur in said bill and inserting in lieu thereof the figures "1877."

§ 2. **EFFECT WHEN.]** This act shall take effect immediately.

## CHAPTER 87.

## TO PROVIDE NEWSPAPERS FOR MEMBERS.

AN ACT to Provide Newspapers for the Members of the 18th Legislative Assembly and Making an Appropriation Therefor.

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

§ 1. CHIEF CLERKS AUTHORIZED.] The Chief Clerk of the House of Representatives and the Chief Clerk of the Council, are hereby authorized to procure for each member of the House and Council, so desiring, six copies of newspapers daily, or their equivalent in weeklies, as each member may choose, to be furnished them regularly during the Eighteenth Session of the Legislative Assembly.

§ 2. AUDITOR'S DUTIES.] The Territorial Auditor is hereby authorized and empowered to hear and determine any and all claims of publishers for newspapers furnished to members under the provisions of section one of this act, as certified to him by the Chief Clerk of the Council and the Chief Clerk of the House, and he is further empowered and authorized to draw his warrant or warrants upon the Territorial Treasurer for such amount or amounts as he may deem to be due upon such accounts, and the Territorial Treasurer is hereby directed to pay such warrants out of the general funds of the Territory. *Provided*, that in auditing the claims for newspapers furnished under the provisions of this act, the Auditor of the Territory shall not allow a greater claim than the regular published price of said newspapers for the legislative session to private individuals.

§ 3. EFFECT WHEN.] This act shall take effect from and after its passage and approval.

COUNCIL CHAMBER,  
BISMARCK, D. T. February 16th, 1889. }

I hereby certify that the within act together with the objections of his Excellency Governor Louis K. Church, was returned to the Council, the House in which originated on the fourteenth day of February, 1889. That the objections of the Governor were read at length and entered upon the Journal, that thereupon the said bill was laid over for consideration, until February 15th, 1889, and upon that day the matter coming up for consideration the question was put, "Shall this bill pass, the objections of the Governor to the contrary notwithstanding." The roll was called and the bill did pass, more than two-thirds of the members present and voting, voting in the affirmative.

Attest: R. E. WALLACE,

Chief Clerk.

H. M. STIMMEL

President of the Council.

HOUSE OF REPRESENTATIVES,  
BISMARCK, D. T., February 16, 1889. }

I hereby certify that the within act together with the objections of his Excellency Governor Louis K. Church, was received from the Council on the 16th day of February, 1889, that the objections of the Governor were read at length and the question stated: "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: J. M. G. HAMILTON,

Chief Clerk.

H. H. KEITH,  
Speaker of the House.

## LIEN.

## CHAPTER 88.

## THRESHING MADE A LIEN ON GRAIN.

AN ACT Providing for a Lien Upon Grain for Threshing the Same.

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

§ 1. LIEN.] Every person or persons owning and operating a threshing machine shall have a lien from the date of threshing upon all grain threshed by him with such machine for the value of the services so rendered in doing such threshing.

§ 2. PRIORITY.] Said lien shall have priority over all other liens and incumbrances upon said grain created subsequent to the passage and approval of this act, if filed within ten days from the day upon which said threshing was completed.

§ 3. PROVED ACCOUNT FILED WITH REGISTER.] Any person entitled to a lien under this act shall make an account in writing stating the kind of grain and the number of bushels threshed, the price agreed upon for such work, which shall not be in excess of the price usually charged for such services, the name of the person for whom said threshing was done and a description of the land upon which said grain was grown and after making oath to the correctness of the account shall file the same in the office of the register of deeds of the county in which the person owning such grain resides, except when said person resides in an unorganized county, and in such case said statement shall be filed in the county to which said unorganized county is attached for judicial purposes.

§ 4. NOTICE.] It shall be the duty of the register of deeds to file and enter said statements in the manner required by law for the filing and entry of chattel mortgages and he shall be entitled to a fee of ten cents therefor; and the filing of said statement operates as notice to all purchasers and incumbrancers of said property subsequent to the date of said filing.

§ 5. FORECLOSURE.] The said lien may [be] foreclosed by a sale of the property embraced in said lien upon the notice and in the manner provided by law for the foreclosure of chattel mortgages.

§ 6. MISDEMEANOR.] Any person selling, secreting or disposing of property covered by said lien without the written consent of the owner of said lien is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for not to exceed thirty days or by both such fine and imprisonment.

§ 7. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 8. EFFECT WHEN.] This act shall take effect from and after its passage.

NOTE BY THE SECRETARY OF THE TERRITORY.

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

M. L. MCCORMACK,  
Secretary of the Territory.

## PUBLIC INSTITUTIONS.

### CHAPTER 89

#### INVESTIGATION YANKTON HOSPITAL.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota.*

§ 1. JOINT COMMITTEE.] That a joint committee consisting of two members of the Council and three members of the House be appointed by the President of the Council and Speaker of the House respectively, to investigate the condition of the Territorial Hospital for the Insane at Yankton, Dakota. It shall be the duty of said committee to make a thorough investigation of the buildings of said institution and of the character and nature of the work done on the recent extensions of said building and of all defects therein, and of the responsibility for the same. The said joint committee shall also make a thorough investigation of the management and conduct of the affairs of said hospital.

§ 2. **POWERS.]** Said committee shall have power to employ at a reasonable compensation such expert and professional services including clerical and stenographic services as may be necessary; and shall [have] power to send for persons and papers and take all necessary testimony. The officers of said hospital shall afford the said committee full access to said hospital and all the records thereof, and furnish them all needed facilities in their power for such examination.

§ 3. **REPORT.]** Said committee shall make a full report of all their proceedings including all testimony taken and expenses incurred to the Legislative Assembly on or before the first day of March, 1889. The expenses of said committee shall be paid by the Territorial Treasurer upon a warrant drawn upon him by the Territorial Auditor who shall issue the same upon a certificate signed by the President of the Council and the Speaker of the House of Representatives certifying to the correctness of the expenses incurred under this act.

§ 4. **EFFECT WHEN.]** This act shall take effect immediately.

I hereby certify that on the 23th day of January, A. D. 1889, this act was returned to the Council the House in which 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 Council. That the Council considered the bill and the question put by the President. "Shall the bill pass, the objections of the Governor to the contrary notwithstanding," and the bill did pass, more than two-thirds of the Council voting in the affirmative.

Attest: R. E. WALLACE,  
Chief Clerk.

SMITH STIMMEL,  
President of the Council.

#### HOUSE OF REPRESENTATIVES,

BISMARCK, January 28, 1889 }

I hereby certify that the within bill was received from the Council together with the message of the Governor vetoing the same on January 26, A. D. 1889, and that the House considered the bill and duly passed the same, the objections of the Governor to the contrary notwithstanding, more than two-thirds of the members of the House voting in the affirmative.

Attest: JNO. G. HAMILTON,  
Chief Clerk.

H. H. KEITH,  
Speaker of the House.

## CHAPTER 90.

### INVESTIGATION OF JAMESTOWN INSANE HOSPITAL.

**JOINT RESOLUTION** For the Investigation of the Management and Condition of the North Dakota Hospital for the Insane at Jamestown.

*Be it Resolved by the House of Representatives, the Council Concurring:*

§ 1. **JOINT COMMITTEE.]** That a joint committee of five, consisting of three members of the House and two members of the Council be appointed by the presiding officers of the respective bodies for the purpose of investigating into the condition [of] affairs and management of the North Dakota hospital for the insane at Jamestown, including the method pursued in the treatment of the inmates of said hospital.

§ 2. **SESSIONS.]** Said committee shall hold its sessions in the

cities of Bismarck and Jamestown at such times and places as it may determine and shall have full power to issue subpœnas, which subpœnas shall be issued in the name of the Territory of Dakota, signed by the chairman of said committee and directed to any sheriff of the Territory of Dakota to compel the attendance of witnesses from any part of said Territory of Dakota upon the sessions of said committee and to compel the production by the witnesses so subpœnaed of any and all papers and documentary evidence in their possession or under their control which said committee may desire to have produced in the examination hereby authorized.

§ 3. APPEARANCE.] Any person or persons shall have the right to appear before said committee, either in person or by counsel, for the purpose of examining or cross-examining the witnesses produced before said committee and shall also have the right to be heard in person or by counsel upon any matter pertaining to said investigation.

§ 4. REPORT.] The committee to be appointed under and in pursuance of this resolution shall render a full report of their transactions and investigations to the legislative assembly of the Territory of Dakota within fifteen days from the date of their appointment.

§ 5. EXPENSES.] All the expenses attending the work of the committee provided for by this resolution, including the lawful fees of the witnesses and the fees of the officers subpœnaing the same, shall be audited and paid out of the Territorial treasury upon presentation to the Territorial Treasurer by the person or persons entitled to compensation or their authorized attorney of an itemized account of the amount claimed, certified to as correct by a majority of said committee.

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 House of the Legislative Assembly, in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

M. L. MCCORMACK,  
Secretary of the Territory.

## CHAPTER 91.

## EXTENSION OF TIME.

**JOINT RESOLUTION** Providing for an Extension of Time in which the Joint Committee to Investigate the Affairs of the Jamestown Insane Asylum May Report.

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

That the time in which the Joint Committee to investigate the affairs of the Jamestown Insane Asylum shall report to their respective Houses, be and the same is hereby extended for a period of ten days.

## CHAPTER 92.

## VOUCHERS OF CERTAIN INSTITUTIONS.

**AN ACT** to Authorize the Territorial Auditor to Audit Certain Vouchers of the Dakota School of Mines, University of Dakota, and Agricultural College.

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

§ 1. **AUDIT OF VOUCHERS.]** The Territorial Auditor is hereby authorized and it is made his duty to audit vouchers issued by the board of trustees of the Dakota School of Mines and the board of directors of the University of Dakota and Dakota Agricultural college, that are drawn against any unexpended balance now standing to their credit and issue warrants on the Territorial Treasurer therefor, said vouchers to be issued to cover deficiencies in the various funds of the said institutions.

§ 2. **IN EFFECT—WHEN.]** This act shall take effect and be in force from and after its passage and approval.

COUNCIL CHAMBER,

BISMARCK, D. T., February 19, 1889. }

I hereby certify that the within act, together with the objections of his Excellency, Governor Louis K. Church, was returned to the council, the house in which it originated, on the 18th day of February, 1889. That the objections of the Governor were read at length and entered upon the Journal; that thereupon the said act was laid over for consideration until February 18th, 1889, and upon that day the matter coming up for consideration the question was put, "Shall this bill pass, the objections of the Governor to the contrary notwithstanding?" The roll was called and the bill 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.

HOUSE OF REPRESENTATIVES,  
BISMARCK, D. T., February 19, 1889. }

I hereby certify that the within act, together with the objections of his Excellency, Governor Louis K. Church, was received by the house on the 18th day of February, 1889; That the objections of the Governor were read at length and entered upon the Journal; 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 bill did pass, more than two thirds of the members present and voting, voting in the affirmative.

Attest: JNO. G. HAMILTON,

Chief Clerk.

H. H. KEITH,

Speaker of the House.

## CHAPTER 93.

### TRUSTEES OF INSTITUTIONS.

AN ACT to Provide for the Appointment of Trustees for the Several Public Institutions of the Territory of Dakota, and to Define Their Terms of Office, Duties and Compensation.

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

§ 1. BOARD OF TRUSTEES.] Each of the following named institutions shall be governed by a board of trustees to consist of five members to-wit:

The Dakota Hospital for the Insane.  
The North Dakota Hospital for the Insane.  
The Penitentiary of the Territory of Dakota.  
The Penitentiary at Bismarck.  
The Dakota School for Deaf Mutes.  
The School of Mines.  
The Normal School at Madison.  
The Normal School at Spearfish.  
The Agricultural College of Dakota.  
The University of Dakota.  
The University of North Dakota.

And the Governor shall nominate, and by and with the advice and consent of the Council, shall appoint, at this session of the Legislative Assembly, five trustees for each of said institutions, two of whom shall hold their office for the period of two years and three for the period of four years, and until their successors are appointed and qualified, except to fill vacancies, which appointments shall be made by the Governor and shall extend only to the end of the next session of the Legislative Assembly, during which session the Governor shall nominate and by and with the advice and consent of the Council appoint some person to fill the said vacancy for the remainder of the term then unexpired. And the Governor at each session of the Legislature hereafter shall appoint the trustees for each of said institutions as in this act provided, and each of said trustees shall before entering

upon the duties of his office, take and subscribe the oath of office prescribed by law. *Provided*, that not more than two trustees of the same board shall be appointed from the same county in which the public institution is located.

§ 2. POWERS AND DUTIES.] The trustees appointed under the provisions of this act, shall possess the powers and perform the duties now provided by law for the trustees, directors, members of the board of education or regents, respectively of the several institutions specified in section 1 of this act, except as hereinafter provided.

§ 3. SESSIONS LIMITED.] The said board shall not hold more than twelve sessions in any year and said sessions shall not exceed twenty-four (24) days in the aggregate, except that the Governor may in his discretion, authorize additional sessions.

§ 4. COMPENSATION.] The said trustees shall be entitled to receive the sum of three (\$3) dollars per day for each day employed in attendance upon said sessions, and all travelling expenses necessarily incurred therein. Upon the presentation of the proper vouchers containing an itemized statement of the number [of] days of attendance and money actually expended, as above specified, duly verified by the oath of the trustee and certified by the president or secretary of the board; the Territorial Auditor shall audit said claim and draw his warrant upon the Treasurer for the amount allowed to be paid out of the Territorial Treasury.

§ 5. TERM SAVED.] Nothing in this act shall be so construed as to limit the term of office of any trustee, member of the board of education, directors or regents, who has heretofore been appointed for a definite term.

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

Approved, March 7th, 1889.

## CHAPTER 94.

### RIGHT OF WAY THROUGH GROUNDS.

AN ACT, Giving the Right of Way Through the Penitentiary Grounds of the Sioux Falls Penitentiary, at Sioux Falls, Dakota Territory, for Drainage Purposes.

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

§ 1. RIGHT OF WAY.] That any person or persons, natural or corporate, or the municipality of Sioux Falls, Dakota Territory, who may desire to take advantage of this act is hereby granted the right of way without giving any compensation to the Territory of Dakota therefor, through and along the east and north side of the

lands belonging to the Territory of Dakota upon which the Sioux Falls penitentiary is located, to-wit; upon section nine (9), township one hundred and one (101), range forty-nine (49), for the purpose of constructing a drain or ditch with the intention of draining or sewer-ing any lands adjacent thereto or in the vicinity thereof.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 8, 1889.

## PUBLIC PRINTING.

### CHAPTER 95.

#### PRINTING OF BILLS, ETC.

JOINT RESOLUTION, Providing for Certain Public Printing and Making Appropriation for the Same.

*Be it Resolved by the Council and House of Representatives of the Territory of Dakota.*

That the Secretary of the Territory is hereby authorized to procure from the public printer at a rate not exceeding that established by the government and paid by him for similar work, the printing of all bills, resolutions and memorials, one hundred and fifty copies of all bills, joint resolutions and memorials and three hundred and fifty copies daily of the Legislative Journals of the Council and House of Representatives, payment for which has not been otherwise provided for, two hundred and fifty of said Journals to be bound at the end of the session and copies furnished the members of the Legislature, the various Territorial officials and the President of the United States, President of the Senate and to the Speaker of the House of Representatives for the use of Congress as provided by law. Upon presentation to the Territorial Auditor of a properly verified account for printing done under the provisions of this resolution, such account having been approved in writing by the Secretary of the Territory, the auditor shall draw his warrant on the Territorial Treasurer for the amount of said bill or bills and there is

hereby appropriated from the Territorial treasury such sum as may be necessary to pay for said printing.

I hereby certify that on the 28th day of January, 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 in 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 passed, more than two-thirds of the House voting in the affirmative.

Attest: JNO. G. HAMILTON,  
Chief Clerk of the House.

H. H. KEITH,  
Speaker of the House.

COUNCIL CHAMBER,

BISMARCK, January 29, 1889. }

I hereby certify that the within act providing for certain public printing and making appropriation for the same was taken up by the Council on the 28th day of January and the objections of the Governor read at length. The Council then proceeded to reconsider the bill, and the question being, "Shall the bill pass notwithstanding the objections of the Governor?" The bill did pass, more than two-thirds voting in the affirmative.

Attest: R. E. WALLACE,  
Chief Clerk of the Council.

SMITH STIMMEL,  
President of the Council.

## PROBATE COURT.

### CHAPTER 96.

#### CLERKS OF PROBATE COURT.

AN ACT to Provide Clerks of Probate Courts in this Territory.

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

§ 1. CLERKS.] That the Judge of Probate is hereby empowered to appoint and have a Clerk for his Probate court. *Provided*, that said Clerk shall receive no compensation whatever for his services from the county in which such court is situated, and the same powers are hereby conferred on the Clerks of the Probate Court as are upon Clerks of District Courts as far as applicable.

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

Approved, March 8th, 1889.

## CHAPTER 97.

### CLERK HIRE FOR PROBATE COURT.

AN ACT to Provide Clerk Hire for Probate Court.

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

§ 1. CLERK HIRE.] There shall be allowed and paid to the Judges of the Probate Courts in all counties having a population of twenty thousand inhabitants the sum of six hundred dollars per annum, and in all counties having a greater population than twenty thousand inhabitants an additional sum of one hundred dollars per annum for each additional thousand of population, or fraction thereof, for clerk hire, to be paid by such county out of the county treasury on the warrant of the County Auditor.

§ 2. HOW DETERMINE.] The Auditor shall determine the population of his respective county by multiplying by five the total vote cast in the county at the last general election of county officers, prior to the year in which said clerk hire is to be paid, the result shall be taken as the population of such county.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 7, 1889.

## CHAPTER 98.

### SALARY OF PROBATE JUDGE.

AN ACT to Amend Chapter One Hundred [and] Two of the Session Laws of 1883, Entitled "An Act to Amend Section 13, of Chapter 39 of the Political Code, Relating to Salary of Probate Judges.

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

§ 1. SALARY.] That Chapter one hundred [and] two of the Session Laws of 1883, be and the same is hereby amended by adding to section one the following: The Auditor or County Clerk shall determine the population of his respective county by multiplying by

five the total vote cast in the county at the last general election of county officers prior to the year in which the said salary is to be paid. The result shall be taken as the population of said county.

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

Approved, March 2, 1889.

## PHARMACY.

### CHAPTER 99.

#### PHARMACEUTICAL DISTRICTS.

AN ACT Entitled an Act to Amend Section 4, of Chapter 131, of the Laws of 1887 (Section 220, of Compiled Laws.)

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

§ 1. DISTRICTS.] That section four, of chapter one hundred and twenty-one, of the laws of 1887, (section 220 of compiled laws), be and the same is hereby amended so as to read as follows, to-wit:

The Territory of Dakota is hereby divided into two pharmaceutical districts and all that part of the Territory lying north of the seventh standard parallel shall constitute a district to be known as the North Dakota Pharmaceutical District and all that part of the Territory lying south of said parallel shall constitute a district which shall be known as the South Dakota Pharmaceutical District. In each of said districts there shall be a pharmaceutical association, the one in the north district to be known as the North Dakota Pharmaceutical Association and the one in the south district to be known as the South Dakota Pharmaceutical Association. Each of said associations shall select five reputable and practicing pharmacists doing business in their respective districts from which number the governor of the Territory shall appoint three for each of said districts. The said three pharmacists duly elected and appointed shall constitute the board of pharmacy of the districts of North and South Dakota aforesaid respectively and shall hold office as respectively designated in the appointments for the term of one, two and three years, as hereinafter provided, and until their successors have been appointed and qualified. Each of said associations shall annually

thereafter select three pharmacists who shall be members in good standing from which number the Governor of the Territory shall appoint one to fill the vacancy annually occurring in said board. The term of office shall be for three years. In case of resignation or removal from the district of any member of said boards, or of a vacancy occurring from any cause, the governor shall fill the vacancy by appointing a pharmacist from the names last submitted to serve as a member of the board for the remainder of the term.

§ 2. REPEAL.] That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

§ 3. EFFECT WHEN.] That this act shall take effect immediately after its passage and approval.

Approved, February 28th, 1889.

## PUBLIC OFFICERS.

### CHAPTER 100.

#### ANNUAL REPORTS.

AN ACT Providing for the Printing of the Reports of the Territorial Officers and Institutions for the Fiscal Years 1887 and 1888.

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

§ 1. ANNUAL REPORTS.] All accounts for the printing and binding of the annual and bi-annual reports of the Auditor, Treasurer and other Territorial Officers, to the Governor and Legislative Assembly as required by law, shall be properly verified and certified to by the respective Territorial Officers, and after being examined and determined by the Auditor of the Territory, the Auditor is hereby instructed to draw his warrant or warrants on the Territorial Treasurer for such sum or sums as may be found to be due for such printing, and the Territorial Treasurer is hereby authorized to pay said warrants out of the general fund of the Territory, and there is hereby appropriated a sufficient sum to pay for the printing required by this act.

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

Approved, March 7, 1889.

## CHAPTER 101.

## TENURE OF OFFICE.

AN ACT to Limit the Terms of Territorial Officers, Directors, Regents and Trustees.

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

§ 1. TERMS OF OFFICE.] That hereafter the terms of office of all Territorial Officers, Directors, Regents and Trustees of public institutions whose offices are created by the Laws of this Territory and filled by appointment of the Governor with or without the advice and consent of the Legislative Council, shall expire at the end of ten days after the expiration of the term of office of the Governor by whom said appointments were made, or ten days after the qualification of his successor, should said office of Governor become vacant by death, resignation or otherwise, *Provided*, however, that such officers, directors, regents and trustees shall hold their respective offices until their successors are appointed and shall have qualified.

§ 2 VACANCIES.] All vacancies created by death, resignation, removal or under the provisions of this act, shall be filled by appointment by the Governor and the terms of office of such appointees shall expire at the end of the session of the Legislative Assembly next ensuing unless sooner terminated under the provisions of this act.

§ 3. SUBJECT TO REMOVAL.] That all officers of the Territory appointed by the Governor by and with the advice and consent of the Council or such as may be appointed by him, to fill vacancies, shall be subject to removal at the pleasure of the executive without assigning cause therefor, and the vacancies thus created shall be filled by the Governor, *provided*, however, that this act shall not be construed as applying to the Governor of any state created out of this Territory.

§ 4. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved, March 5th, 1889.

## CHAPTER 102.

## TO PROVIDE FOR MAINTENANCE OF OFFICES.

AN ACT for Maintenance of the Public Offices of the Territory.

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

§ 1. ACCOUNTS FOR MAINTENANCE.] That the Territorial Auditor be and he is hereby authorized and empowered to hear and determine any accounts or claims for services or supplies furnished prior to the next session of the Legislative Assembly, for heating and lighting the public offices of the Territory, for care of the same and for expenses necessary to their maintenance, and for necessary repairs upon the Capitol building. And he is also empowered to draw his warrants for such sums as he shall deem to be due on such accounts or claims, not exceeding in the aggregate five thousand dollars in any one year. And the Territorial Treasurer is hereby directed to pay such warrants from the general fund of the Territory.

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

Approved, March 5, 1889.

## CHAPTER 103.

## LIMIT OF TERM OF CERTAIN.

AN ACT Limiting the Term of Holding the offices of County Treasurer and Sheriff.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota.*

§ 1. Two TERMS.] That no treasurer or sheriff of any county in this Territory shall be eligible for election to said offices for more than two successive terms of two years each.

§ 2. REPEAL.] All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 3. EFFECT WHEN.] This act [shall] be in force from and after its passage and approval.

Approved February 11, 1889.

## CHAPTER 104.

## FEE FOR COMMISSION OF NOTARIES PUBLIC REDUCED.

AN ACT Amending Section 2, Chapter 116, of Session Laws of 1887, Relating to Notaries Public.

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

§ 1. **FEE FOR COMMISSION.**] That section 2, of chapter 116, of the general laws of 1887 be and the same is hereby amended so as to read as follows:

The secretary shall issue a commission and duplicate thereof to each notary public appointed by the governor, one of which shall be by said notary public posted in a conspicuous place in his office for public inspection, and the secretary shall be entitled to charge and receive for the issuance of said commission and duplicate a fee of two (2) dollars. The secretary shall keep in his office a careful record of such appointments and the date of expiration and shall notify each notary by mailing, postage prepaid, at least thirty (30) days before the expiration of his term a notice of the date upon which his commission expires, which notice shall be addressed to said notary at his last known place of residence.

§ 2. **REPEAL.**] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. **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 11, 1889. }

I hereby certify that on the 7th 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 the 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 11, 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 9th day of February, 1889; that the objections of the Governor were read at length and the question stated, "Shall this act be passed, the objections of the Governor to the contrary notwithstanding?" The roll of members was called and the act did pass, more than two-thirds of the members of the council present and voting in the affirmative.

Attest: R. E. WALLACE,  
Chief Clerk.

SMITH STIMMEL,  
President of the Council.

## RAILROAD CORPORATIONS.

### CHAPTER 105.

#### REPEAL OF GROSS EARNINGS TAX.

AN ACT to Repeal the Gross Earnings Law Relating to the Levy and Collection of Taxes on Railroad Property.

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

§ 1. REPEAL.] That sections 24 and 25, chapter 46, laws of Dakota, 1879, Thirteenth Legislative Assembly, and chapter 99, laws of Dakota, 1883, Fifteenth Legislative Assembly, and sections 1,571, 1,572, 1,573, 1,574, 1,575 and 1,576, of the Compiled Laws of Dakota, be and the same are hereby repealed, and all acts and parts of acts by said enumerated acts repealed are hereby expressly revived and re-enacted, *Provided*, however, that this act shall in no wise affect the levy and collection of taxes upon the property of railroad companies in this Territory for the year 1888 (eighteen hundred and eighty-eight).

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

Approved January 29, 1889.

## CHAPTER 106.

## POLICE POWERS TO CONDUCTORS.

AN ACT Giving Police Powers to Conductors of Railway Trains Carrying Passengers.

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

§ 1. POLICE POWERS.] The conductors of all railway trains carrying passengers, while on duty in this Territory are invested with police powers of a sheriff.

§ 2. DELIVER TO NEAREST JUSTICE.] When an arrest is made by any such conductor, he must take the defendant before the nearest or most accessible magistrate of the county in which the offense is triable, or cause the same to be done, and he shall receive no fees or compensation therefor.

§ 3. EFFECT WHEN.] This act shall have force and effect from and [after] its passage and approval.

Approved, March 5, 1889.

## CHAPTER 107.

## LEVY AND COLLECTION OF TAXES ON RAILROAD PROPERTY.

AN ACT Providing for the Levy and Collection of Taxes upon Property of Railroad Companies in this Territory.

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

§ 1. PERCENTAGE OF GROSS EARNINGS TO BE PAID IN LIEU OF OTHER TAXES.] In lieu of any and all other taxes upon any railroads, except railroads operated by horse power, within this Territory, or upon the equipment, appurtenances or appendages thereof, or upon any other property situated in this Territory belonging to the corporation owning or operating such railroads, upon the capital stock or business transactions of said railroad company there shall hereafter be paid into the treasury of this Territory an amount equal to a percentage of all the gross earnings of the corporation owning or operating such railroad, arising from the operating of such railroad, as shall be situated within this Territory, both upon Territorial and interstate traffic, in case the railroad company owning or operating

such line shall accept and become subject to this act as hereinafter provided.

Every such railroad corporation or person owning or operating or that may hereafter own or operate any line of railroad in this Territory which shall have accepted this act shall pay to said Treasurer each year "for the first five years" after the approval of this act an amount equal to three per centum of such gross earnings "and for and in each and every year after the expiration of such five years an amount equal to two per cent of said gross earnings," and the payment of such amount annually as aforesaid shall be and is in full of any and all other taxation and assessment whatever upon the property aforesaid.

Said payments shall be made, except as hereinafter provided, one half on or before the 15th day of February, and one half on or before the first day of August in each year. And for the purpose of ascertaining the gross earnings aforesaid an accurate account of such earnings shall be kept by said company. An abstract shall be furnished by said company to the Treasurer of this Territory on or before the first day of February in each year, the truth of which abstract shall be verified by the affidavits of the Treasurer and Secretary of such company, and, for the purpose of ascertaining the truth of such affidavits and the correctness of such abstracts, full power is hereby vested in the Governor of this Territory, or any other person appointed by law, to examine under oath the officers, employees of said company or other persons, and if any person so examined by the Governor or other authorized person shall knowingly or willfully swear falsely, concerning the matter aforesaid, every such person is declared to have committed perjury, and for the purpose of securing to the Territory the payment of the aforesaid per centum, it is hereby declared that the Territory shall have a lien upon the railroad of said company, and upon all property, estate or effects of said company whatsoever, personal, real or mixed, and the lien hereby secured to the Territory shall have and take precedence of all demands, decrees and judgments against said company.

§ 2. WHEN COMPANY SHALL FAIL TO MAKE RETURN.] If any such railroad company having accepted this act shall fail to make return of its gross earnings as aforesaid, or of any part thereof, at the time and in the manner provided by law, and such default shall continue during the period of thirty days, such company shall be subject to a penalty of an amount equal to ten per cent of the tax imposed upon such company by this act, and the Treasurer of the Territory shall forthwith ascertain the amount of such percentage justly due from such company, as near as may be, from such evidence as may be available, and shall thereupon collect such amount so ascertained, together with the said penalty thereon.

The amount so ascertained by the Territorial Treasurer as in this section provided, shall, together with the said penalty thereon be by him entered in the books of his office and such entry when so made

shall stand in the place of the report required by law to be made by such company and shall in all courts within this Territory be evidence of the amount of such tax and penalty and of the other facts stated therein in pursuance of this act.

§ 3. NEGLECT TO PAY TAXES.] In case any railroad company which shall have accepted the provisions of this act shall fail or neglect to pay the amount reported at the time and in the manner hereinafter provided, for a period of thirty days after the same shall have become due by the terms thereof, in such case there shall be added to the amount of such tax ten per centum thereof as a penalty for such failure or neglect to pay.

§ 4. TERRITORIAL TREASURER TO DISTRAIN.] At any time after the expiration of the period of thirty days after the amount as above provided has become due and payable under the provisions of this act, the Territorial Treasurer or his deputy shall distrain sufficient goods, chattels or other moveable property if found within this Territory to pay the said amount due from such corporation, together with the penalty thereon as hereinafter provided and shall immediately advertise the sale of the same in at least three newspapers published within this Territory, stating the time when, and the place where such property shall be sold; such sale shall take place at some point on the railroad of such delinquent company and at least four weeks notice of the time and place of such sale shall be given; such delinquent company, its successors or assigns may pay in such amount and penalty at any time before the sale of the property distrained as herein provided, and thereupon further proceedings in connection with such distress shall cease and the property distrained shall be delivered to the owner thereof.

§ 5. LAND SUBJECT TO TAXATION.] The lands of any railroad company shall become subject to taxation in the same manner as other similar property as soon as the same are sold, leased or contracted to be sold or leased, and on or before the first day of April of each year each railroad company having lands within this Territory shall return to the county clerk of each county within this Territory full and complete lists, verified by the affidavit of such officers of the company having knowledge of the facts, of all lands of such company situated within such county sold or contracted to be sold or leased during the year ending the last day of December preceding, and the list furnished on or before the first day of April, A. D. 1889, in compliance with the terms of this section, shall include a complete list of all lands sold or leased, prior to the last day of December, 1888.

§ 6. HOW TAXES APPORTIONED.] The moneys received and collected by the Territorial Treasurer in pursuance of this act shall be disposed of by him as follows: In case the railroad company paying such tax owns no land granted in aid of the construction of its railroad, one-third of the same shall be retained in the Territorial treasury for the use of the Territory, and the remainder shall be

apportioned among the several counties into or through which the railroad or railroads of such companies run, in proportion to the number of miles of main track situated in such counties respectively. In case the railroad company paying such tax owns land granted in aid of the construction of its railroad, then thirty per cent of the tax paid by such company shall be retained in the Territorial treasury for the use of the Territory and forty per cent shall be apportioned among the several counties into or through which the railroad or railroads of such company run, in proportion to the number of miles of main track situated in such counties respectively, and thirty per cent shall be apportioned among the several counties in which lands forming a part of its land grant is situated, in proportion to the number of acres of surveyed and unsold lands in said counties.

§ 7. ANY RAILROAD COMPANY.] Which at the date of the passage of this act owns or is engaged in operating any line or lines of railroad in this Territory, may at any time within thirty days after the passage of this act, by resolution of its board of directors, attested by its secretary, and filed with the Secretary of the Territory, accept and become subject to the provisions of this act, and provided that any railroad company which is now in arrears in the payment of taxes assessed under chapter 99, of the laws of 1883, shall, within thirty days after the passage of this act, pay into the Territorial treasury the full amount of the taxes and interest due under the assessments under said laws of 1883 before they can avail themselves of the provisions of this act, by accepting its terms, including taxes on both Territorial and inter-state earnings. It is further expressly provided that any company failing to strictly comply with the provisions of this act within the term herein provided shall be immediately subject to assessment and taxation in the manner provided for the assessment and taxation of the property of individuals of this Territory and said taxes shall be collected in the same manner as is now provided in cases of the property of individuals. Any company which has not complied with the provisions of chapter 99 of the session laws of 1883 by paying all taxes claimed on gross earnings both Territorial and inter-state, or by filing an account of gross earnings both Territorial and inter-state shall prepare and file such account in the manner therein provided within thirty days from the passage hereof, and pay one half of the entire amount due under the agreement and acceptance herein referred to, for the current year, and also the entire amount of taxes heretofore claimed by the Territory on local and inter-state earnings of such companies but remaining unpaid at the time of filing said account and within thirty days after the passage of this act, or the same shall not apply to such company or companies. The balance of said taxes due for the current year shall be paid to the Territorial Treasurer on or before the 15th day of August, 1889. Any railroad company that may be hereafter organized in this Territory, or that shall hereafter become the owner of or engaged in operating any lines of rail-

road in this Territory may accept and become subject to the provisions of this act by filing a resolution of its board of directors in the manner as hereinbefore provided.

In case any such railroad company shall accept and become subject to the provisions of this act, it shall at the time of filing such acceptance render an account of gross earnings, both Territorial and interstate, in the manner as hereinbefore provided, and shall pay, at the time of rendering such account, all amounts claimed by the Territorial Auditor as tax due on the local and inter-state earnings of such company for the current or any preceding year, and shall thereafter pay an amount equal to 3 per centum of such account as follows: If such acceptance is filed on or before the fifteenth day of February in any year such company shall pay one half of said amount on said fifteenth day of February and the balance on the fifteenth day of August following. Should such acceptance be filed before the fifteenth day of August and after the fifteenth day of February in any year, then an amount equal to 3 per centum of such account shall be paid in full on or before the fifteenth day of August in each year. Thereafter accounts shall be rendered and payment made in the manner provided in this act; *Provided*, that any company failing to promptly and strictly comply with the provisions herein set forth and to pay all sums herein provided to be paid, shall be subject to assessment and taxation in the same manner as individuals.

§ 8. IN CASE OF NON-ACCEPTANCE.] The railroads and property of all railroad companies owning or operating lines of railway in this Territory which companies shall not accept and become subject to the provisions of this act shall not be entitled to the exemption in this act contained, but shall be subject to taxation in such manner as shall be provided by law.

§ 9. REPEAL OR AMENDMENT.] This act shall be subject to repeal or amendment by any future legislature, and nothing herein contained shall be construed as a repeal of any revenue law now in existence, as applicable to any railroad company which shall not accept the provisions of this act as herein provided.

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

Approved March 7, 1889.

## CHAPTER 108.

## EXPENSE OF RAILROAD COMMISSIONERS.

**A BILL** for an Act Appropriating Money to Defray the Traveling Expenses of the Railroad and Warehouse Commission.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the Territorial Treasury not otherwise appropriated, the sum of three thousand dollars (\$3,000), to defray the traveling expenses of the Railroad and Warehouse Commission for the ensuing two years.

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

Approved, March 8th, 1889.

## CHAPTER 109.

## AID IN CONSTRUCTION OF RAILROADS.

**AN ACT** to Enable Townships and Incorporated Towns and Cities to Aid in the Construction of Railroads.

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

§ 1. POWER TO GRANT AID.] That it shall be lawful for any township, incorporated town or city to aid in the construction of any projected railroad in this Territory as hereinafter provided.

§ 2. SPECIAL ELECTION—TAXES.] Whenever a petition shall be presented to the council or trustees of any incorporated town or city or supervisors of any township, signed by a majority of the resident free-hold tax payers of such township, incorporated city or town, asking that the question of aiding in the construction of any railroad be submitted to the voters thereof, it shall be the duty of the trustees or council of such incorporated town or city, or supervisors of such township, to immediately give notice of a special election by publication in some newspaper published in the county, if any be published therein, and also by posting said notice in five public places in such township, incorporated city or town, at least fifteen

days before said election; which notice shall specify the time and place of holding said election, the line of railroad proposed to be aided, the rate per centum of taxes to be levied and whether the entire per centum voted is to be collected the first year, or one half collected the first year and one half the following year, and the amount of work upon said proposed railroad line required to be completed before said tax shall be paid to said railroad company and where the same shall be performed and to what point said road shall be fully completed and any other conditions which shall be performed before such tax shall become due, collectible or payable, and in no case shall such tax become due, collectible or payable until the road is fully completed to such point as mentioned in the notice. At such election the question of taxation shall be submitted and if a majority of the votes polled be for taxation, then the clerk of the incorporated town, the city clerk, township clerk or clerk of said election, shall forthwith certify to the county auditor or clerk of said board of county commissioners, where there is no county auditor the rate per centum of the tax thus voted by such township, incorporated town or city, the year or years during which the same is to be collected, and the time and terms upon which the same when collected, is to be paid to the railroad company under the conditions and stipulations in said notice, together with an exact copy of the notice under which such election was held which said county auditor or clerk of the county commissioners shall at once cause to be recorded in the office of the register of deeds of the county. When such certificate shall have been made and recorded, the board of county commissioners shall at the time of levying the ordinary taxes next following, levy such taxes as are voted under the provisions of this act as shown by said certificate and cause the same to be placed on the tax lists of the proper township, incorporated city or town, indicating in their order thereupon when and in what proportion the same are to be collected, and upon what conditions the same are to be paid to the railroad company, a certified copy of which said order shall accompany the tax lists. Such taxes shall be collected at the time or times specified in said order in the same manner and subject to the same penalties for non-payment after they are collectible as other taxes, or as may be stated in the petition asking said elections.

§ 3. CONDITIONS OF NOTICE.] The stipulations and conditions contained in the said notice must conform to those set forth in the petition as the same presented to the supervisors of the township, or trustees or council of the incorporated city or town, where the said taxes are proposed to be voted, and the aggregate amount of taxes to be voted or levied under the provisions of this act, in any township, incorporated town or city, shall not exceed three per centum of the assessed value of the property therein respectively.

§ 4. MONEY HOW PAID OUT.] The moneys collected under the provisions of this act shall be paid out by the county treasurer to the treasurer of the railroad company, for which the same was voted upon

the orders of the president or managing director thereof, at any time after the supervisors of such township or trustee or council of such incorporated town or city voting such tax, or a majority of them, shall have certified to the county treasurer that the conditions required of the railroad company and set forth in the notice for the special election at which the tax was voted, have been complied with, and it is hereby made the duty of said township supervisors or trustees or council of such incorporated town or city when the said conditions have been complied with sufficiently to entitle the said railroad company to the amount of such orders, or where the said conditions are fully complied with and performed on the part of the railroad company, to make such certificate.

§ 5. PAYMENT OF TAX BY LABOR.] Nothing in this act shall preclude any tax payer who may contract with a railroad company for which taxes shall have been, or may hereafter be voted under the provisions of this act, to pay his tax thus voted, or any part thereof, in labor on the line of its road, or in material for its construction, or supplies furnished, or money paid for the construction of the road, in pursuance of the terms and conditions stipulated in the notices of election, in lieu of a payment to the county treasurer, from presenting to the county treasurer a receipt from said railroad company duly signed by the president or managing director, specifying the amount of such payment, and having the same credited by the county treasurer on his tax in aid of said railroad, with the effect in all respects as though the same was paid in money to the said county treasurer and when such receipts have been presented and thus credited by the county treasurer, they shall have the same force and validity in his settlement with the board of county commissioners as the orders from the railroad company provided in section four (4) hereof.

§ 6. FAILURE OF RAILROAD COMPANY TO COMPLY.] When taxes have been voted and levied to aid in the construction of any railway within the Territory by any township, town or city under and by virtue of the provisions of this act, and such railway company shall have neglected for the space of six months to comply with the terms of the notice and petition under which such taxes have been voted, and such fact shall be certified to the board of county commissioners of the county wherein such taxes were voted by the supervisors of the township or trustees of the town or city council, it is hereby made the duty of the board of county commissioners to abate and cancel all such taxes on the books of the county, and refund any money in the county treasury to the persons who may have paid the same.

§ 7. EFFECT WHEN.] This act shall take effect and be in force on and after its passage.

Approved, March 8th, 1889.

## RAILROAD COMMISSIONERS.

### CHAPTER 110.

#### THEIR POWERS AND DUTIES.

AN ACT to Amend An Act Entitled "An Act to Provide for the Establishment of a Board of Railroad Commissioners, Defining their Duties, to Regulate the Receiving and Transportation of Freight on Railroads in this Territory. Passed at the Sixteenth Legislative Assembly of the Territory of Dakota, and Approved, March 6th, 1885.

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

AMENDMENT OF ACT OF 1885.] That Chapter 126 of the General Laws of the Territory of Dakota, passed at the Sixteenth Legislative Assembly of the Territory of Dakota, and approved March 6th, 1885, being "An Act to provide for the establishment of a Board of Railroad Commissioners, defining their duties and to regulate the receiving and transportation of freight on railroads in this Territory," be and the same is hereby amended to read as follows:

§ 1. APPOINTMENT OF COMMISSION.] The Governor with the advice and consent of the Council, shall biennially appoint three competent persons, who shall constitute a Board of Railroad Commissioners and who shall hold their office for the term of two years from the first of April next after such appointment. The Governor shall by appointment fill any vacancy caused by death, removal or resignation, said commissioners shall hold their office until their successors are duly appointed and qualified. Said commissioners shall be selected so nearly as practicable one from the southern, one from the central and one from the northern part of the Territory.

§ 2. WHO DISQUALIFIED.] No person shall be qualified to hold the office of railroad commissioner, who is the owner of bonds or stocks in any railroad company, or who is in the employment of, or in any manner pecuniarily interested in any railroad or in any railroad corporation, public warehouse or elevator.

§ 3. POWERS.] Said commissioners shall have general supervision of all railroads in this Territory and all freight and passenger transportation and traffic thereon, or connected therewith, and shall

enquire into any neglect or violation of the laws of the Territory by any railroad company, its officers, agents or employes, doing business therein; and shall from time to time carefully examine and inspect the condition of each railroad in the Territory, and all railway stations and passenger and freight depots and buildings, and the conduct and management of such railroads, with reference to the safety and convenience of the public and the carrying into effect the provisions of this act.

§ 4. FREE PASSAGE.] Such commissioners and their secretary shall have the right of passing, in the discharge of their official duties on all railroads and passenger railroad trains in the Territory, free of charge.

§ 5. RAILROADS REQUIRED TO SHIP WITHOUT DISCRIMINATION.] Any railroad company doing business in this Territory, when requested by any person wishing to ship grain on its road shall receive and transport such grain in bulk, and permit the same to be loaded either on its track adjacent to its depot, or at any warehouse or side track, at any station, without discrimination or distinction as to the manner or condition in which such grain is offered for transportation, or as to the person, corporation, warehouse, elevator or place where, or to which it may be consigned, and shall receive the same, in car load lots, from wagons, sleighs or other vehicles, on their side tracks at any station, the same as when offered from warehouses, elevators, allowing a reasonable time for loading them, and for the purpose of loading the same, shall place the cars in convenient places, easy access by wagon or sleighs or other vehicles, and shall after the same have been loaded, whether at side track, elevator, warehouse or depot without unnecessary delay, proceed to ship the same to the place where the same is consigned.

§ 6. TRACK FROM ELEVATOR TO RAILROAD.] It shall be lawful for the owner or owners of any elevator, warehouse or mill at any station on the line or at the termination of any railroad in this Territory, to construct from such elevator, warehouse or mill, a railroad track to the track of any railroad company, and to connect with the same by switch at his or their own expense, and it shall be the duty of any such railroad company to allow such connection. Such side track and switch shall at all times be under the control and management of and kept in repair by such railroad company, provided, that the party for whose benefit such side track and switch shall be constructed, shall pay to such railroad company the actual cost of maintaining such side track and switch, which payment shall be made monthly, and in case such payment shall not be made as provided, then and in that case the obligations of this section upon said railroad companies shall from and thereafter cease and be inoperative as against them until such costs and expenses are fully paid.

§ 7. DIVISION OF CARS.] When any railroad company doing business in this Territory, shall be unable for any reasonable cause to furnish cars at any railway station, or side track in accordance

with the demands made by all persons demanding cars at such station or side track for the shipment of a car load lot or lots of freight, such cars as are furnished shall be divided daily as equally among the applicants until each shall have received one car, when the balance shall be divided ratably to each shipper in proportion to the amount of daily receipts of grain or other freight, or to the amount of grain offered at such station or side track, provided that every application made in good faith on an earlier day shall be filled before supplying any car to any applicant of a succeeding day.

§ 8. SHORT AND LONG HAUL TARIFFS.] It shall be unlawful for any railroad company doing business in this Territory to charge or receive any greater compensation for the transportation of passengers of like kind or class, or quantity of property under substantially similar circumstances or conditions, for a shorter than for a longer distance over the same line in the same direction, the shorter being included in the longer distance, but this shall not be construed as authorizing any railroad company to charge or receive as great compensation for the shorter as for the longer distance, and no such railroad company shall charge, demand or receive from any person, company or corporation for the transportation of passengers or property a greater sum than it shall at the same [time] demand, charge or receive from any other person, company or corporation for a like service from the same place; it shall be unlawful for any such railroad company, directly or indirectly, by any special rate, rebate, drawback or other device, to charge, collect or receive from any person, company or corporation, a greater or less compensation for any service rendered, or to be rendered, in the transportation of persons or property than it charges, demands, collects or receives from any other person, company or corporation for doing for him or them a like or contemporaneous service in the transportation of like kind of traffic under substantially similar circumstances and conditions.

§ 9. CHARGES LIMITED.] No railroad company shall charge, demand or receive from any person, company or corporation, an unreasonable price for transportation of property or for the hauling or storage of freights, or for the use of its cars or for any privilege or service afforded by it in the transaction of its business as a railroad company, and shall not demand the payment of freight beyond the point to which the goods or property is consigned by the shipper.

§ 10. POOLING DECLARED UNLAWFUL.] It shall be unlawful for any railroad company, subject to the provisions of this act, to enter into any contract, agreement or combination with any other railroad company or companies, for the division or pooling business of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof, and in case of an agreement for the pooling of their business as aforesaid, each day of its continuance shall be a separate offense.

§ 11. TRANSFERS AT CROSSINGS OR INTERSECTIONS.] And in all cases where any line of railroad shall cross or intersect any other line

of railroad in this Territory, it shall be the duty of the railroad companies owning or operating such crossing or intersecting railroad lines, within sixty (60) days after being required by the order of the railroad commissioners unto them delivered, to provide at such crossing or intersection suitable and sufficient facilities for transferring cars, and for accommodating and (and) transferring passengers and traffic of all kinds or classes from one such line of railroad to the other, and to afford equal and reasonable facilities for the interchange of cars and traffic between their respective lines, provided, however, that no depot building or station house shall be required where, or within one mile of which, there shall not then be a village or settlement containing at least one hundred inhabitants and a post office. The cost of constructing, maintaining and operating all facilities and structures required by this section, or by any such order, shall be borne equally between the railroad companies owning or operating such intersecting lines.

§ 12. TIME TO REMOVE PROPERTY FROM CARS.] Any consignee, or person entitled to receive the delivery of any freight shipped to him in car load lots, by any railroad company, shall have twenty-four hours free of expense after notice of arrival by the company to the consignee or person entitled to receive the same in which to remove the same from the cars of such railroad company, which said twenty-four hours shall be held to embrace such time as the car containing such property is placed and kept by such railroad company in a convenient and proper place for unloading, and it shall not be held to be in a proper place for unloading unless it can be reached with teams or other suitable means for removing the property from the cars, and reasonably convenient to the depot of the company at which it is accustomed to receive and unload merchandise consigned to that station or place.

§ 13. SCHEDULES OF RATES REQUIRED.] Every railroad company subject to the provisions of this act, shall within sixty days after this act shall take effect, print and keep for public inspection, schedules showing the classification, rates, fares and charges for the transportation of passengers and property of all kinds and classes, which such company has established, and which are in force at the time upon its railroad. The schedule shall plainly state the places upon its railroad, between which passengers and property will be carried, and shall contain classifications of freight in force upon the lines of such railroads, a distance tariff, and a table of intersection distances, and shall also state separately the terminal charges, and any rules or regulations which in any wise change, affect or determine any part of the aggregate of such rates aforesaid, fares and charges. Such schedules shall be printed in large type, and copies for the use of the public shall be kept in every depot or station upon any such railroad in such place and in such form that they can be conveniently inspected. And in cases where passengers or freight pass over lines or roads operated by more than one railroad company, and the sever-

al companies operating such railway lines, establish joint schedules of rates, fares, charges or classification for such lines or roads, such rates, fares, charges or classifications shall be printed and kept in each station of such railroad lines or routes, the same as though such lines were owned or operated by a single railroad.

§ 14. CHANGES IN RATES TO BE PUBLISHED.] No change in the classification shall be made in the rates, fares or charges which have been established and published as aforesaid, by any railroad company in compliance with the requirements of section 15, except after ten days publication by posting in stations, which notice shall plainly state the changes proposed to be made in the schedule then in force, and the time when the change schedule shall go into effect, and the proposed changes shall be shown by printing new schedules or shall be plainly indicated upon the schedules in force at the time and kept for public inspection. And when any railroad company shall have established and published its classifications, rates, fares, or charges in compliance herewith, it shall be unlawful for such company to charge, demand, collect or receive from any person, company or corporation a greater or less compensation for the transportation of persons or property or for any service in connection therewith, than is specified in such published schedule or classification, rates, fares or charges, as may at the time be in force.

§ 15. DUTIES OF COMMISSIONERS TO ENFORCE ACT—COMPLAINTS.] It shall be the duty of any railroad commissioners to personally investigate and ascertain whether the provisions of this act are violated by any railroad company and to visit the various lines of each railroad for that purpose as often as practicable and whenever the facts in any manner ascertained by said commissioners whether by personal investigation or by petition or complaint of any citizen of the Territory, shall in their judgment warrant such prosecution, it shall be the duty of said commissioners to immediately cause suit to be commenced and prosecuted against any railroad company who may violate the provisions of this act.

Any injured person, firm, corporation or association, or any mercantile, agricultural or any manufacturing society, or any body politic or municipal corporation or organization, may make complaint to such railroad commissioners of the violation of any of the provisions of this act by any railroad company, and if it appears upon investigation of the charges contained in said complaint that there is any reason to believe that said railroad company has violated any of the provisions of this act and thereby injured the complainant, it shall be the duty of said commissioners to institute action against such offending railroad company.

§ 16. SUITS AND PROSECUTIONS.] All such suits and prosecutions may be instituted in any county in this Territory through or into which the line of the railroad company violating the act may extend, and no such suit commenced by said railroad commissioners

shall be dismissed except by the consent of the said commissioners and the attorney general.

§ 17. ATTORNEY GENERAL'S DUTY.] The attorney general of the Territory of Dakota shall be ex-officio attorney for said railroad commissioners and shall give them such counsel and advice as they may from time to time require, and it shall be his duty to institute and prosecute all actions which said commissioners may deem proper, and he shall render to such railroad commissioners all counsel, advice and assistance which they may require in carrying out the provisions of this act or any law of this Territory.

And the said attorney general may, if he sees fit, call upon the district attorney of the county in which an action is pending and prosecuted by the said attorney general as herein provided, to assist in such county in the prosecution of said action therein, and when so called upon it shall be the duty of said district attorney to render proper and necessary assistance in the prosecution thereof.

§ 18. PROSECUTED IN NAME OF TERRITORY.] Said actions shall be prosecuted in the name of the Territory of Dakota, and the trial thereof be conducted in all respects the same as prosecutions in civil actions, except that the verdict of the jury shall be "guilty" or "not guilty," and except further that several distinct and separate causes of action may be prosecuted in the same action under separate counts and a separate verdict may be required upon each count.

§ 19. COSTS AND EXPENSES PAID BY TERRITORY.] All costs and expenses connected with the trial of actions prosecuted in the name of the Territory of Dakota under the provisions of this act shall be paid and defrayed by the Territory of Dakota and all fines collected hereunder shall be paid into the treasury of said Territory.

An itemized statement of the cost and expenses of each action shall be made by the said attorney general, and when duly verified by him and approved by the trial judge, shall be presented to the Territorial Auditor, who shall make and deliver to each person entitled thereto a warrant upon the Treasurer of the Territory for the amount due him as per the said statement, which shall be paid as other warrants.

§ 20. PENALTY ON RAILROAD CORPORATION—SEPARATE OFFENSES.] Any railroad company found guilty of violating any of the provisions of this act shall be fined in a sum not less than \$1,000 nor more than \$10,000, to which shall be added the costs of action, and each day's refusal or neglect of any railroad company, to do or perform any act required by this act to be done, and each day's commission of any act or thing prohibited by this act shall be taken to be a separate offense and such railroad company may be prosecuted and convicted for each day's offense separately, and the conviction thereof shall not be a bar to the prosecution and conviction of the same on any other day.

§ 21. FINE NOT A BAR TO INDIVIDUAL ACTION.] Such conviction or fine, or the payment of any fine shall not operate as or be a bar to the prosecution of such railroad company by any person, com-

pany or corporation sustaining damage by reason of the violation of any of the provisions of this act, but in addition thereto any person, company or corporation suffering or sustaining any damage by reason of such violation by any railroad company may maintain an action in his or their own name and behalf against such company and in case of a recovery the court shall assess treble damage against such offending railroad company in favor of the party suffering such damage or injury.

§ 22. SUBJECT TO SUIT IN EQUITY.] In addition to the foregoing actions, such railroad companies shall be subject to all actions in equity or chancery now cognizable in the courts of this Territory upon a proper showing.

§ 23. ANNUAL REPORT OF COMMISSIONERS.] The said railroad commissioners shall on or before the first Monday of December, of each year, make a report to the governor of their doings for the preceding year, containing such facts, statements and explanations as will disclose the workings of the system of railroad transportation in this Territory and its relation to the general business and prosperity of the citizens of this Territory, and such suggestions and recommendations in respect thereto as may to them seem appropriate. Said report shall also contain as to every railroad company doing business in this Territory:

1. The amount of its capital stock.
2. The amount of its preferred, if any, and the amount of its preferment.
3. The amount of its funded debt and the rate of interest.
4. The amount of its floating debt.
5. The cash and present value of its road and equipment in this territory, including permanent way, buildings and rolling stock, all real estate used exclusively in operating the road, and fixtures and conveniences for transacting its business.
6. The estimated cash value of all property owned by such railroad company in this territory with a schedule of the same, not including lands granted in aid of its construction.
7. The number of acres situated in this Territory originally granted in aid of the construction of its said road by the United States or by this Territory.
8. Number of acres of said land remaining unsold.
9. A list of the officers and directors with their respective places of residence.
10. Such statistics of the road and of the transportation and business for the year within this territory as may in the judgment of the commissioners be necessary and proper for the information of the legislative assembly, or as may be required by the governor; such report shall exhibit and refer to the condition of the railroad company on the first day of July of such year, and the details of its transportation business transacted during the year ending June 30.
11. The average amount or tonnage that can be carried over

each road within the Territory with one engine of given power.

§ 24. RAILROAD CORPORATION'S RETURNS.] To enable such commissioners to make such report the president or managing officer of each railroad company doing business in this Territory shall annually make to the said commissioners on the fifteenth day of the month of September such returns in the form which they may prescribe as will afford the information required for their said official report. Such official returns shall be verified by the oath of the officer making them and any railroad corporation when returns shall not be made as herein prescribed by the fifteenth day of September shall be liable to the penalty prescribed in this act.

§ 25. MAJORITY VOTE DECIDES.] All questions arising in the action of the said railroad commissioners shall be decided and determined by a majority vote.

§ 26. "RAILROAD COMPANY" DEFINED.] The term "railroad company," contained in this act, shall be deemed and taken to mean all corporations, companies or individuals now owning or operating, or which may hereafter own or operate any railroad in whole or in part in this Territory, and the provisions of this act shall apply to all persons, firms and corporations, and all associations and persons whether incorporated or otherwise that shall do business as common carriers upon any of the lines of railroads in this Territory, except street railways, the same as to "railroad companies," hereinbefore mentioned.

§ 27. OFFICE AT WILL OF COMMISSIONERS.] The said commissioners shall hold their office at such place as they shall determine. They shall each receive a salary of \$2,000, to be paid as the salaries of the other Territorial officers are paid and shall be provided, at the expense of the Territory, with necessary office furniture and stationery and they shall have authority to appoint a secretary, who shall receive a salary of \$1,500 per annum.

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

Approved, March 8, 1889.

## REAL ESTATE.

### CHAPTER 111.

#### CANCELLATION OF ENCUMBRANCES AND CONVEYANCE OF TITLE.

AN ACT to Authorize Courts by Their Judgment to Cancel Encumbrances upon and to Establish and Convey the Title to Real Property in Certain Cases.

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

§ 1. POWER OF COURT.] That in all actions arising under chapter 29, of the code of civil procedure, of this Territory, and in actions brought for the satisfaction of record of mortgages and other liens upon real property, whenever the defendant is not found within the jurisdiction of the court and service of summons therein is made on such defendant by publication, or whenever any defendant in such action refuses or neglects to make a conveyance or cancel an encumbrance pursuant to the judgment of the court, the court shall have power by its judgment to determine and establish the title to the property in question, to annul, cancel and remove any and all conveyances and encumbrances constituting a cloud upon such title and whenever a conveyance of such property is directed to be made by such judgment, and likewise in actions for the specific performance of contracts relating to real property in this territory, whenever the defendant is not found within the jurisdiction of the court and service of summons therein is made on such defendant by publication or whenever any defendant in such action refuses or neglects to convey the property involved in the suit pursuant to the judgment of the court this shall be done in behalf of such defendant by a trustee appointed by the court for that purpose.

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

Approved, March 7, 1889.

## REFEREE.

## CHAPTER 112.

## REFERENCE AND MANNER OF TRIAL.

AN ACT to Amend Article 7, of Chapter 12, of the Code of Civil Procedure.

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

§ 1. WHAT MAY BE REFERRED—FEE.] Section 271, of the code of civil procedure is hereby amended so as to read as follows: “Section 271. All or any of the issues in an action, whether of fact or law, or both, may be referred by the court or judge thereof, upon the written consent of the parties, and the fees of such referee shall be fixed by the court which shall in no case exceed ten dollars per day.”

§ 2. REFERENCE WITHOUT CONSENT.] Section 272, of the code of civil procedure, is hereby amended so as to read as follows: “Section 272. When the parties do not consent to the reference the court may, upon the application of either party, or of its own motion, direct a reference to [in] the following cases:

1. When the trial of an issue of fact shall require the examination of a long account on either side, in which case the referee may be directed to hear and divide the whole issue, or to report upon any specific question of fact involved therein; or

2. When the taking of an account shall be necessary for the information of the court before judgment, or for carrying a judgment or order into effect; or

3. When a question of fact other than upon the pleading shall arise upon motion or otherwise in any stage of the action.

§ 3. TRIAL—MANNER OF.] Section 276, of the code of civil procedure is hereby amended so as to read as follows: “Section 276 —The trial by referee shall be conducted in the same manner as a trial by the court. They shall have the same power to grant adjournments and allow amendments to any pleading as the court upon such trial, upon the same terms and with like effect. They shall also have the same power to preserve order and punish all violations thereof upon such trial and compel the attendance of witnesses before them by attachment and to punish them as for a contempt for non-attendance, or refusal to be sworn or testify as is possessed by the court

and they shall give to the parties or their attorneys at least eight days notice of the time and place of trial; they must state the facts found and conclusions of law separately and report their findings, together with all of the evidence taken by them, and all exceptions taken on the hearing to the district court and the district court may review such report and on motion enter judgment thereon or set aside, alter or modify the same and enter judgment upon the same, so altered or modified, and may require the referees to amend their report when necessary. The judgment so entered by the district court may be appealed from to the supreme court in like manner as from judgment to [in] other cases, and the report of the referees may be incorporated with the bill of exceptions.

§ 4. REPEAL.] Section 277, of the code of civil procedure, is hereby repealed.

§ 5. EFFECT WHEN.] This act shall not be in force and take effect until after the first day of May, 1889.

Approved February 19, 1889.

## SCHOOL DISTRICTS.

### CHAPTER 113.

#### SETTLEMENT OF DIFFERENCES.

AN ACT to Authorize the Settlement of Differences Between Certain Independent School Districts and Cities and School Townships Growing out of the Adjustment of School Debts.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota.*

§ 1. SETTLEMENT OF DIFFERENCES.] That in all counties in which the school township act of 1883 has been adopted in lieu of the school district act, and in which differences remain unsettled relative to the adjustment and apportionment of the school debt existing against either said district or said school townships between said districts or townships and any independent school district, or any city embracing or constituting an independent school district created by special act of the Legislature, the school officers representing such school districts and townships or either and those representing such independent school districts and cities embracing or constituting independent

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.

## STRUCK JURIES.

## CHAPTER 116.

## REPEAL OF LAW.

AN ACT to Repeal Chapter 84, of the Laws of 1885, Entitled "An Act Providing for "Struck Juries."

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

§ 1. REPEAL.] That Chapter 84, of the General Laws of 1885, Entitled "An Act providing for "Struck Juries," be and the same is hereby repealed."

## HOUSE OF REPRESENTATIVES.

BISMARCK, D. T., February 7, 1889 }

I hereby certify that on the 6th 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 the 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 7, 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 7th day of February, 1889; that the objections of the Governor were read at length and the question stated, "Shall this bill pass, the objections of the Governor to the contrary notwithstanding?" The roll of members was called and the act did pass, more than two-thirds of the members of the council present and voting, voting in the affirmative.

Attest: R. E. WALLACE,

Chief Clerk.

SMITH STIMMEL,

President of the Council.

# TAXATION.

## CHAPTER 117.

### TAX SALES REGULATED.

AN ACT to Amend Sections 6, 7 and 8, of Chapter 49, of the General Laws of 1879.

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

§ 1. DATE OF TREASURER'S NOTICE OF SALE.] That Section (6), of Chapter 49, of the General Laws of 1879, be and the same is hereby amended by striking out the word "September" wherever it appears in said section and inserting the word "October" in lieu thereof.

§ 2. DATE OF SALE.] That Section (7), of Chapter 49, of the General Laws of 1879, be and is hereby amended by striking out the word "October" wherever it appears in said section and inserting the word "November" in lieu thereof.

§ 3. DATE OF FILING RETURNS OF SALE.] That Section (8), of Chapter 49, of the General Laws of 1879, be and the same is hereby amended by striking out the word "November" wherever it appears in said section and inserting the word December in lieu thereof.

§ 4. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

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

HOUSE OF REPRESENTATIVES, }  
BISMARCK, D. T., March 2nd, 1889. }

I hereby certify that on the 28th 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 this bill pass, the objections of the Governor to the contrary notwithstanding?" The roll being called, the bill did pass, more than two-thirds of the members present and voting, voting in the affirmative.

Attest: JNO. G. HAMILTON,  
Chief Clerk.

H. H. KEITH,  
Speaker of the House.

COUNCIL CHAMBER, }  
BISMARCK, D. T., March 2nd, 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 2nd day of March, A. D., 1889. That the objections of the Governor were read at length and entered upon the Journal; 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 bill 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.

## CHAPTER 118.

## COMPROMISE OF DELINQUENT TAXES.

AN ACT to Permit County Commissioners to Compromise Delinquent Taxes.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota.*

§ 1. COMMISSIONERS MAY COMPROMISE.] Whenever taxes remain unpaid on any town lots or other real estate, and the property shall have been offered for sale as required by the statutes two successive years and received no purchaser on account of the depreciation of the value of said property or otherwise, the county commissioners of the county in which the property is situated, shall have the power to compromise with the owners thereof, by abating a portion of the delinquent taxes and penalty on said property.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

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

HOUSE OF REPRESENTATIVES,  
BISMARCK, D. T. March 2nd, 1889. }

I hereby certify that on the 1st day of March, 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 read at length and entered 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?" The roll was called and the bill did pass, more than two-thirds of the members present and voting voting in the affirmative.

Attest: JOHN G. HAMILTON,  
Chief Clerk.

H. H. KEITH,  
Speaker of the House.

COUNCIL CHAMBER,  
BISMARCK, D. T. March, 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—day of March, A. D. 1889; that the objections of the Governor were read at length and entered on the Journal; 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 bill 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.

## CHAPTER 119.

## EXTENSION OF TIME WHEN 1888 TAXES SHOULD BE COLLECTED.

AN ACT Providing for an Extension of the Time for the Payment of Taxes of 1888.

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

§ 1. DELINQUENCY.] That all unpaid taxes for the year 1888 shall become delinquent on the first Monday of February, 1889, and shall draw interest at the rate of one per cent per month from the date of such delinquency until first day of June, 1889, at which latter date there shall be added as a penalty five per cent upon the amount so remaining unpaid, and one per cent per month thereafter until paid, to be added on the first day of each succeeding month.

§ 2. TREASURER NOT TO COLLECT UNTIL JUNE 2ND, 1889.] The County Treasurers of the various counties in the Territory shall not proceed to collect by distress and sale any of the taxes hereinbefore referred to until after the first day of June, A. D. 1889. *Provided*, that in case any person having only personal property assessed and upon which the taxes are unpaid shall, in the opinion of the Treasurer, be about to move out of the county, or dispose of such property, it shall be the duty of such Treasurer to collect such taxes at any time after the tax duplicate has been placed in his hands as provided by law.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved January 28, 1889.

## CHAPTER 120.

## TAX ON PROPERTY OF EXPRESS AND SLEEPING CAR COMPANIES.

AN ACT to Provide for the Levy and Collection of Taxes on the Property of Express Companies and Sleeping Car Companies Doing Business in this Territory.

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

§ 1. TAX.] Each and every express company and sleeping car company doing business in this Territory, or person or persons operating such companies, shall pay to the Territorial Treasurer each year three (3) per centum of their gross earnings and the payment of such per centum annually as aforesaid shall be and is in full of all taxation and assessments whatever upon the property aforesaid. The said payment shall be made one-half ( $\frac{1}{2}$ ) on or before the 15th day of April and one half ( $\frac{1}{2}$ ) on or before the 15th day of August in each year, and for the purpose of ascertaining the gross earnings aforesaid, an accurate account of said earnings shall be kept by the companies aforesaid, an abstract whereof shall be furnished by them to the Treasurer of this Territory on or before the first day of April in each year, the truth of which abstract shall be certified by the affidavits of the Treasurer and Secretary of said companies, and for the purpose of ascertaining the truth of such affidavits and the correctness of such abstracts full power is hereby vested in the Governor of this Territory, or any other persons appointed by law, to examine, under oath, the officers or employes of said express and sleeping car companies, or other persons, and if any person so examined by the Governor or other authorized person shall knowingly or willfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury, and for the purpose of securing to the Territory the payment of the aforesaid per centum, it is hereby declared that the Territory shall have a lien upon all property of said companies, whether real, personal or mixed, and the lien hereby secured to the Territory shall have and take precedence of all demands, decrees and judgments against said companies.

§ 2. PENALTY.] If any express or sleeping car company doing business in this Territory shall fail to make return of its gross earnings as provided in the preceding section, or any part thereof at the time and in the manner provided by law and such default shall continue during the period of thirty days, such company shall be subject to a penalty in an amount equal to twenty-five per cent of the tax imposed upon such companies under this act, and the Treasurer of the Territory shall forthwith ascertain the amount of such tax

justly due from such company as nearly as may be available, and shall thereupon collect such tax so ascertained together with said penalty thereon. The amount of tax ascertained by the Territorial Treasurer, as in this section provided, shall, together with said penalty thereon, be by him entered in the book of his office, and such entry, when so made, shall stand in the place of the report required by law to be made by such companies, and shall, in all courts of this Territory, be evidence of the amount of such tax and penalty and of the other facts stated herein in pursuance of this act.

§ 3. **ADDITIONAL PENALTY.]** In case any express or sleeping car company doing business in this Territory shall fail or neglect to pay the tax reported by it to be due in pursuance of this act, or charged upon the books of the Territorial Treasurer, as provided in section 2, of this act, for the period of thirty (30) days after the same shall have become due, in such case there shall be added to the amount of such tax ten per centum thereof, as a penalty for such failure or neglect to pay.

§ 4. **MANNER OF COLLECTION OF TAX.]** At any time after the expiration of the period of thirty (30) days after any tax has become due and payable under the provisions of this act, the Treasurer or his Deputy shall distrain sufficient property, goods or chattels, if found within this Territory, to pay the taxes or per centum due from such company, together with the penalty thereon herein provided, and the cost of sale and shall immediately advertise the sale of the same in at least three newspapers published in the Territory, stating time when and the place where such property shall be sold, and four (4) weeks notice of the time and place of such sale shall be given. Such sale shall take place at some point in this Territory and the proceeds of the same shall apply to the payment of the tax or per centum due. The delinquent company, its successors or assigns, may pay any such tax and penalty, together with the cost of the same at any time before the sale of the property distrained, as provided, and thereupon further proceedings in connection with such distress shall cease and the property returned to the owner thereof.

§ 5. **DISPOSITION OF PROCEEDS.]** The money secured and collected by the Territorial Treasurer, under the provisions of this act, shall be disposed of by him as follows: One-third ( $\frac{1}{3}$ ) thereof shall be retained in the Territorial treasury for the use of the Territory, and the remainder shall be apportioned among the several counties, as nearly as may be in proportion to the amount earned therein, and to facilitate this apportionment it shall be the duty of the county clerk or county auditor of each county, on or before the first day of April of each year, to report to the Territorial Treasurer the number of express routes and miles of each, together with the number of offices where goods are received and transmitted, and the number of sleeping car routes and number of miles in said county.

§ 6. **TO WHAT ACT APPLIES.]** The provisions of this act shall apply to all express companies and sleeping car companies doing bus-

iness in this Territory; *Provided*, however, that express routes and sleeping cars owned and operated exclusively by railway companies doing business in this Territory, as a part of their railway equipment, and whose gross earnings are included in railroad earnings in their annual report to the Territorial Treasurer, for the purposes of taxation shall be exempt from the provisions of this act.

§ 7. REPEAL. All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, March 8th, 1889.

## CHAPTER 121.

### TAX ON DOGS.

AN ACT to Provide for the Levy and Collection of a Tax Upon Dogs.

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

§ 1. ASSESSOR'S DUTY.] That each and every Assessor in this Territory, when making the assessment shall annually make a list of the names of all persons who own or keep a dog or dogs, and set opposite the name of such owner or keeper the number of dogs, he or she has in his or her possession, or that is, or are kept on his or her premises, which list shall be returned by such Assessor to the County Clerk or Auditor of the county in which said list is taken, with the assessment roll.

§ 2. TAX OF ONE DOLLAR.] That the County Clerk or Auditor of each county shall charge upon the tax list against the name of each person reported and returned as the owner or keeper of a dog or dogs, as a tax, the sum of one dollar per each dog owned or kept by such person, which tax shall be collected at the same time and in the same manner as other taxes upon personal property.

§ 3. REPEAL] That all acts or parts of acts in conflict with this act are hereby repealed.

§ 4. EFFECT WHEN.] That this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1889.

## CHAPTER 122.

## TAX LIST AND DUPLICATE.

AN ACT to Amend Section 38, of Chapter 28 of the Political Code, as Amended by Chapter 143, Laws of 1887.

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

§ 1. TAX LIST.] That Section 38, of Chapter 28 of the Political Code, as amended by Chapter 143, Laws of 1887, be and the same is hereby amended so as to read as follows: "The Tax List when completed shall be kept by the county clerk as the property of the county.

The Clerk shall also prepare a duplicate of the Tax List of his county and deliver the same to the County Treasurer on or before the first day of November, following the date of the levy for the current year; and the County Treasurer shall immediately upon receipt of such duplicate Tax List, specify in a column for that purpose the years, for which any of the real estate described therein has been sold for taxes and not redeemed.

§ 2. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

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

Approved February 11, 1889.

## CHAPTER 123.

## TAX SALE AND NOTICE.

AN ACT Entitled An Act to Amend Section 61, of Chapter 28 of the Political Code, Relating to the Sale of Real Property for Taxes Designated as Section 1620, of the Compiled Laws.

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

§ 1. TAX SALE AND NOTICE.] That Section 61, of Chapter 28, of the Political Code, (designated as Section 1620 in the Compiled Laws,) be and the same is hereby amended by inserting after the words "and said notice must contain a list of the lands to be sold and the amount of taxes due," where they occur in said section, the

words: Provided, that when any real property shall [have] been advertised in a paper for two consecutive years under the provisions of this section and not sold, the Treasurer shall give notice for the sale of said property by posting a written notice in the manner required where there is no paper published in the county.

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

Approved March 5th, 1889.

## TOWN LOTS.

### CHAPTER 124.

#### CONVEYANCE OF UNCLAIMED LOTS.

AN ACT to Amend Sections one (1) and two (2) of Chapter One Hundred and Fourteen (114), of the Session Laws of 1883, Relating to the Disposition of Lots in Towns, Entered Under the Act of Congress, Approved March 2nd, 1867, and Acts Amendatory Thereto.

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

§ 1. UNCLAIMED LOTS.] That Sections one (1) and two (2), of Chapter one hundred and fourteen (114), of the Session Laws of 1883, be amended to read as follows:

§ 1. That Section thirteen (13), of Chapter 135, of the Session Laws of 1881, be amended to read as follows: When any lots or parcels of land within the limits of any city or town shall remain unclaimed after the expiration of the time allowed by this act for the filing of claimants statements, it shall be the duty of the corporate authorities or Judge of the Probate Court to convey the lots or parcels of land so remaining unclaimed by good and sufficient deed to the board of education of such city or town, or to the said city or town for the use of schools, if either said board of education or said city or town may by law take and hold real estate for the use of schools, to be disposed of by such board of education for school purposes and for the exclusive use and benefit of the school district in which such city or town may be situated or which it may form under such directions and limitations as are provided by this act.

§ 2. SALE WHEN.] If there be no such board of education, or if said city or town be not legally authorized to take and hold real estate

for the use of schools, then the corporate authorities or Judge of the Probate Court shall sell and dispose of the said unclaimed lots or parcels of lands so remaining for school purposes and for the exclusive use and benefit of the school district in which said city or town may be situated or which it may form under the directions, limitations and provisions contained in this act.

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

Approved February 26, 1889.

## TOWNSHIP GOVERNMENT.

### CHAPTER 125.

#### PAYMENT OF ROAD SUPERVISORS.

AN ACT to Amend Section 70, of Chapter 29, of the Political Code, Relating to Highways, Bridges, Ferries and Road Supervisors.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota.*

§ 1. DEFICIENCY PAID OUT OF TREASURY.] That section seventy (70), of chapter (29), of the Political Code, relating to highways, bridges, ferries and road supervisors, be amended by adding to the end of said section the following: "And *Provided*, further, that when the road tax in any road district has been worked out as provided in section sixty-eight (68), of this chapter, and there are no funds available for paying the road supervisors, the county commissioners may levy a tax, not exceeding one mill on the dollar, for such purpose upon the taxable property of the road district in which such deficiency occurs, to be paid in cash to the County Treasurer as other taxes are collected and paid."

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

Approved February 13th, 1889.

## CHAPTER 126.

## TOWNSHIP GOVERNMENT.

AN ACT to Amend Section 86 Sub-Chapter 1, Chapter 112, of the Laws of 1883,  
Relating to Township Government.

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

§ 1. AMENDMENT.] That Section 86; Sub-Chapter 1, Chapter 112, of the Laws of 1883, be and the same is hereby amended by striking out the words and figures. "The sum of \$60.00 in any one year" and inserting in lieu thereof, "\$60.00 per annum in any one congressional township."

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, February 26, 1889.

## CHAPTER 127.

## VOTE FOR TOWNSHIP GOVERNMENT.

AN ACT Providing for Township Organization.

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

§ 1. SPECIAL ELECTION.] Whenever a petition signed by one-third of the legal voters in any county, not heretofore organized in whole or in part under the provisions of Chapter 112, of the General Laws of 1883, relating to Township Government, is presented to the county commissioners of any county, they shall submit to the voters of such county at a special election, the question whether the system of Township Government in force under the General Laws of the Territory of Dakota shall be adopted in said county and at such special election there shall be written or printed on the ballots the words "For Township Organization" or "Against Township Organization."

§ 2. PETITION FOR ORGANIZATION.] If a majority of the votes cast at said special election shall be in favor of township organization it shall then be lawful for a majority of the legal voters of any congressional township in such county to petition the board of county

commissioners of such county to be organized as a town under the provisions of Chapter 112, of the General Laws of 1883, and thereafter the same proceedings shall be had and taken as are provided for in said chapter and the laws amendatory thereto.

§ 3. REPEAL.] All acts or parts of acts special or general which would prevent any county from proceeding under the provisions of this act in the adoption of township government are hereby repealed.

§ 4. EFFECT—WHEN.] This act shall take effect and be in force on and after its passage and approval.

Approved, February 28, 1889.

## CHAPTER 128.

### TOWNSHIP ASSESSOR'S BOND AND CLERK'S DUTY.

AN ACT Entitled an Act to Provide for filing of Bonds of Township Assessors and the Duties of Township Clerks.

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

§ 1. BOND.] That all township assessors shall give bond in the penal sum of \$500, with two good and sufficient sureties, to be approved by the board of supervisors of the township for which said assessor is elected; and said assessor and all other township and precinct officers required by law to give bond, shall immediately, after the approval thereof, hand the same to the clerk of the township for which they were elected, whose duty it shall be to forthwith file said bonds with the clerk of the district court as provided in section five, of chapter 5, of the Political Code, and no further filing or record shall be necessary.

§ 2. DUTY OF CLERK.] It shall also be the duty of the Clerk of the township to require all legally elected officers, who accept the office to which they are elected, to duly qualify within the time prescribed by law, and in accordance with all other provisions thereof. If any Clerk refuses or neglects to procure and file the bonds of township officers, as provided for by this act, [he] shall be liable to a fine of not less than \$10 nor more than \$50.

§ 3. FEE FOR FILING.] An appropriation of fifty cents for each bond required to be filed shall be made by the township and paid to the Clerk of Court for the proper filing and entering of such bond.

§ 4. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved, March 5, 1889.

## TONGUE RIVER.

## CHAPTER 129.

## TO PREVENT NUISANCE IN OR NEAR SAME.

AN ACT to Preserve the Waters of Tongue River and its Tributaries for Domestic and Drinking Purposes.

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

§ 1. WHAT IS DECLARED UNLAWFUL.] That it shall be unlawful for any person, persons, society or corporation to keep any stock, horses, cattle, sheep or swine in any stable, shed, pen, yard or corral within or upon the banks of Tongue River, or any of its tributaries, or nearer than sixty (60) feet to the top of the bank of said water course, or to use or maintain any privy or privy vault within or upon the bank of Tongue River or any of its tributaries, or nearer than sixty (60) feet to the top of the bank of said water course or to maintain any slaughter house, or slaughter any animal within eighty (80) rods of said water course, or to place or cause to be placed any manure, offal of any kind, carcasses of dead animals or other refuse matter offensive to the sight or smell or deleterious to health, into the Tongue River, or any of its tributaries, or within or upon the banks of the same, in such proximity that the said substance may be washed into said water course.

§ 2. OTHER PROHIBITIONS.] That it shall be unlawful for any person, persons, society or corporation to locate any grave yard or cemetery, or to bury or cause to be buried, the dead body of any human being, or of any animal within eighty (80) rods of said water course.

§ 3. DISCONTINUANCE.] It shall be the duty of every person, persons, society or corporation maintaining any grave yard or cemetery or having buried their dead within eighty (80) rods of said water course, to discontinue the use of such grave yard or cemetery, and to remove all such dead bodies within one hundred and twenty (120) days after the passage and approval of this act.

§ 4. MISDEMEANOR.] That any person offending against any of the provisions of this act shall be guilty of a misdemeanor, and shall

be subject to a fine not exceeding one hundred (100) dollars to be recovered before any Justice of the Peace or Judge of the county in which the offense is committed.

§ 5. ABATEMENT—FINE.] That, upon conviction, the Justice of the Peace, or Judge before whom such conviction is had, shall order such person, persons, society or corporation to remove the cause or causes of such offense, whether it be stables, sheds, yards, pens, corrals, slaughter houses, privies, privy vaults, manure, offal of any kind, carcass of dead animals, grave yard or cemetery or the buried dead body of any human being or animal or other cause, and to discontinue the use of the same in such proximity to said water course, and for each day's delay in removing the same, after being so ordered, he or they shall be liable to a fine of five (5) dollars. The fines mentioned in this act shall be recovered upon complaint of any person and be disposed of as other fines.

§ 6. DUTY OF CONSTABLES.] It shall be the special duty of each constable of each township through which Tongue river or any of its tributaries flow to make an inspection of said water course throughout its entire course in their respective townships. The constables shall act jointly so far as possible in making such inspection, and the said inspection shall be made three times annually, viz: In March, July and October of each year. But the failure of one constable to act shall not excuse the other, and it shall be the duty of either, or both jointly, to enter complaint before one of the Justices of the Peace of his or their township of each infringement of any of the provisions of this act. Whereupon such justice of the peace shall issue a warrant for the arrest of the person or persons so offending and shall place the same in the hands of one of the constables who shall forthwith arrest such offenders. And the Justice of the Peace, or any Judge before whom such complaint is made, shall immediately notify the County Attorney, and it shall be the special duty of the County Attorney of such county to attend before such Judge or Justice of the Peace, and to prosecute all such offenses in the name of the Territory of Dakota, as in other criminal matters, and every Constable, Judge, Justice of the Peace and County Attorney who shall fail or neglect to perform his duty as herein provided shall forfeit his office.

§ 7. REMOVAL BY OFFICER—TAX.] *Provided*, further, that if the person, persons, society or corporation so convicted and ordered as provided in the preceding sections, shall fail or neglect for ten (10) days to discontinue and remove such offense, or cause of offense, it shall be the duty of such Judge or Justice of the Peace to order the Constables of such township to remove the same, and such Constables shall render to such Judge or Justice of the Peace a sworn itemized statement of all expenses incurred for such removal, and such Judge or Justice of the Peace shall transmit the same to the board of township supervisors, who shall audit the same as a special tax against the personal and real property of the party so offending,

and transmit an account of the same to the County Auditor who shall also audit the same and charge as a special tax against the property of the person or persons offending, and the same shall be collected as other taxes and credited to the special tax of the proper township in which such property is situated.

§ 8. FEES OF OFFICERS.] The officers herein mentioned shall be entitled to charge and receive the same fees as in other criminal cases, to be paid in the same manner as in other criminal cases, except that the constables shall receive their compensation from their townships in the same manner as other township expenses are paid.

Approved March 8th, 1889.

## UNASSIGNED AMENDMENTS.

### CHAPTER 130.

#### AGRICULTURAL COLLEGE BONDS.

AN ACT to Amend Sections 1 and 2, of Chapter 10, Laws of 1887.

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

§ 1. AMENDMENT.] That Sections 1 and 2, of Chapter 10, of the Laws of 1887, be and the same are hereby amended by striking out the word "January" wherever the same may appear in said sections, and inserting in lieu thereof the word "March."

§ 2. REPEAL.] All acts and parts of acts, inconsistent with this act, are hereby repealed.

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

Approved, February 15, 1889.

## CHAPTER 131.

## REGISTRY AS PHARMACIST.

AN ACT to Amend Section Six (6), of Chapter 121, of the Laws of 1887.

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

§ 1. AMENDMENT.] That section 6, of chapter 121, of the General Laws of 1887, be and the same is hereby amended by striking out the words "Within three months" where they occur therein.

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

Approved, February 4, 1889.

## CHAPTER 132.

## TREES AND HEDGES ON HIGHWAYS.

AN ACT Entitled "An Act to Amend Section 47, of Chapter 29, Political Code."

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

§ 1. TREES ADDED.] That Section forty-seven, of Chapter twenty-nine, of the Political Code, be and the same is hereby amended by inserting in the first line of said section after the word "hedge" the words "or trees."

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. EFFECT WHEN.] That this act shall take effect immediately after its passage and approval.

Approved, February 26th, 1889.

# USURY.

## CHAPTER 133.

### EXCESSIVE INTEREST TAKING DECLARED A MISDEMEANOR.

#### AN ACT Making the Taking of Usury a Misdemeanor.

§ 1. MISDEMEANOR.] Every person who directly or indirectly receives any interest, discount or consideration upon the loan or forbearance of any money, goods or things in action greater than is allowed by law is guilty of a misdemeanor.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved, March 5, 1889.

## TITLES OF JOINT RESOLUTIONS AND MEMORIALS

PASSED BY THE LEGISLATURE OF 1889, AND NOT  
PUBLISHED IN THIS VOLUME.

JOINT RESOLUTION, tendering a vote of thanks to the Representatives and friends of Dakota in Washington, for their noble work in our behalf.

A JOINT RESOLUTION, relative to a Division of the Territory of Dakota and the Admission of each portion into the Union, as separate states.

JOINT RESOLUTION AND MEMORIAL for the passage of the pending bill for the opening to settlement of a portion of the Sioux Indian Reservation in Dakota.

A MEMORIAL TO CONGRESS, relating to the opening of that portion of the Fort Randall Military Reservation, on the east side of the Missouri River, in the County of Charles Mix, to settlement, under the Homestead Law.

JOINT RESOLUTION, a Memorial to Congress in regard to the enactment of a law permitting Certain Counties to issue bonds.

JOINT RESOLUTION AND MEMORIAL to the Congress of the United States, praying for the maintenance of Fort Abraham Lincoln, as a Military Post, and for Appropriations for its Improvement.

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