

TOWNSITES.

CHAPTER XXXVII.

AN ACT IN RELATION TO TOWNSITES ENTERED AS SUCH UNDER
THE ACT OF CONGRESS, APPROVED MARCH 2, 1867.

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

Plotting of
townsite &c

Section 1. That whenever any tract of land shall have been settled upon and entered as a Townsite under the provisions of the act of Congress, approved March 2, 1867, it shall be the duty of the person so entering the same, or his successor in office, to immediately cause the same to be plotted into lots with streets and alleys as near as may be in conformity with the municipal improvements already made on said tract of land and to cause said plot to be duly recorded in the office of the register of deeds of the county in which said tract of land may be situated, and to cause a census to be made of the occupants of said tract by some competent person, which census after its correctness shall be proven by the affidavit of the person making the same endorsed thereon, shall be filed with the said register of deeds. In case of any error in making said census, said person so entering or his successor in office may correct the same by adding to or striking therefrom the names of such persons as are or are not, as the case may be, occupants of said tract of land.

Meeting of
occupants

Sec. 2. As soon as said census shall be completed, said person entering said land or his successor in office shall call a meeting of the occupants of said tract of land so entered as aforesaid, to be held at some convenient place on said land, by giving at least ten days notice thereof by publication in some newspaper published in the county in which the said land may be situated if there be one, and by posting notices in at least three of the most public places upon said tract of land, of the time and place and the object of such meeting as provided hereafter.

Sec. 3. At the meeting of the occupants called as before provided; the person so entering said land or his successor in office, shall preside, and there shall be from among the attendants a secretary appointed by a majority attending, whose duty it shall be to keep a record of the proceedings of such meeting and file the same with the register of deeds of the county. There shall be selected by the persons present at such meeting, three disinterested persons not occupants of the land in question, to act as commissioners, and whose duties shall be as hereinafter provided, and such persons shall be notified by the secretary of such meeting of their selection ;

Proceedings of
meeting &c

Provided, however, That in case of a failure by said meeting to select such commissioners, or in case a selection shall be made and the persons so selected fail or refuse to act, then in that case the person so entering or his successor in office shall make such selection of either or all of them.

Sec. 4. After said commissioners shall be so selected, they shall have power to determine the respective interest of the several claimants in and to said tract of land so entered as a townsite, and for that purpose shall meet together at some convenient place on said tract of land, first giving at least ten days notice of the time and place and object of such meeting in the manner prescribed for the meeting of the occupants. Before entering upon the discharge of their duties on the premises, they shall each be duly sworn to honestly and faithfully determine the respective interest of the several claimants to the land so entered as a townsite according to the evidence that may be presented to them, and they shall immediately proceed to hear any and all testimony that may be offered by the respective claimants in support of their claims, and upon such evidence determine the rights of such claimants as to any and what portion of said land so entered as a townsite, awarding to each claimant only such part of said lands as he or she may have under improvement, leaving the vacant lots thereon to be disposed of as hereinafter provided.

Commissioners
to investigate
rights of
claimants

Sec. 5. The decision of said commissioners shall be made in writing and shall be by them filed in the office of the register of deeds of said county.

Their decision
to be in writing

Sec. 6. In case any party in interest shall feel aggrieved by the decision of said commissioners, an appeal may be taken from such decision in the same manner and under the same rule and regulations as to time, filing of bonds, &c , as appeals are taken from judgments of justices of the peace, and for that purpose the register of deeds is required to file with the clerk of the district court a certified copy of

Aggrieved party
may take an
appeal

so much of such decision as may be appealed from, and in such district court issues shall be made up and tried the same as though the action originated in said court and the said judgment of the court shall determine the respective interests of the parties to the action in the said lands so entered as a townsite.

Commissioners
to make deed

Sec. 7. After such decision of said commissioners shall be filed in the register of deeds office, the person so entering said lands or his successor in office shall immediately execute and deliver to the parties who shall be so determined to be the occupant of said land good and sufficient deeds for so much of said lands as said commissioners shall so determine they are entitled to receive, except in those cases where appeals have been taken to the district court and in those cases the deeds shall be made according to the judgment of the court.

Appeal may be
taken to su-
preme court

Sec. 8. Appeals may be taken from the judgment of the district court to the supreme court, as in other cases.

Powers of
commissioners

Sec. 9. In hearing and determining the respective rights of the claimants as above provided, the said commissioners shall have all the powers pertaining to the courts of justice in compelling the attendance of witnesses, production of testimony, punishing for contempt, &c., and for that purpose shall have power to issue summons and other process, directed to the sheriff of the county, whose duty it shall be to execute said process.

Who to make
estimate of
expenses

Sec. 10. The person so entering said land or his successor in office shall after the decision of the commissioners shall be filed with the register of deeds, make a calculation of the expenses attendant upon the entry and division of said land and for that purpose is authorized to audit all accounts that may be presented and fix the proportion thereof which each occupant should pay according to his or her interest in said tract, and upon the delivery of the deed require a payment of such proportionate amount together with two dollars each for expenses of making and executing the deed including the cost of the stamps.

In case of
vacant lots

Sec. 11. If there shall remain any lots or parcels of said tract not claimed or awarded to claimants as before provided, the title to the same shall remain in the person so entering or his successor in office until said town shall be incorporated, when the same shall be at once transferred to the corporate authorities by their corporate name.

Same

Sec. 12. When said remaining lots shall be so transferred or in case the entry shall be made by the corporate authorities of a town, said corporate authorities shall have power by a vote of the common council, trustees or other corporate authority as may be designated

by law, to lay out a reasonable portion thereof, into public squares, and from time to time to sell the lots as to them shall seem best for the interests of the town, and to appropriate the proceeds thereof in building or repairing public buildings, in grading, paving, macadamizing and otherwise repairing and improving the streets and alleys and levees of said town, upon said tract so entered as aforesaid.

Sec. 13. In case a sale shall be made by said corporate authorities, Sale of vacant lots at least thirty days notice of such sale shall be given by publication in some newspaper printed in the county, if there be one, and by posting notices in at least four of the most public places in said town, giving the time, place and the terms of such sale, and such sale shall be at public auction to the highest bidder and may be as such corporate authorities shall determine, either for cash or for part cash, and part on credit, if credit be given such credit shall not exceed one year.

Sec. 14. The decision of any two of said commissioners shall be considered and held to be the decision of the commissioners as before What to constitute decision of commissioners provided.

Sec. 15. The commissioners shall each be entitled to receive for their services as such, the sum of three dollars per day for each and every day they shall be necessarily engaged in the discharge of their duties, to be audited and paid by the person entering said land or his successor in office, out of the funds collected from the claimants as heretofore provided. Compensation of commissioners

Sec. 16. The judge of probate of each county shall be deemed and held to be the judge of the county court in and for their respective counties for all the purposes required in the act of Congress entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867. Judge of probate to be considered county judge

Sec. 17. The acts and doings of Alpheus G. Fuller, probate judge of Yankton county, Dakota Territory, relating or pertaining to the plotting, disposition or conveyance by him, of any and all lots of land in the town of Yankton, Territory of Dakota, situated and being upon that tract of land known and designated as lot No. four, (4) in section No. eighteen (18), township No. ninety-three (93), range fifty five (55), the same having been entered as a townsite under the provisions of said act of Congress, approved March 2, 1867, are hereby ratified, confirmed, legalized, and rendered valid and binding in law and equity; Acts legalized

Provided, however, That nothing in this section contained shall be held to legalize any acts or doings of said Fuller, in the disposition or conveyance of any lot or lots where there was or is any person

claiming any lot or lots adversely to the party or parties to whom he may have conveyed;

Provided, further, That said adverse claimants shall within thirty days from the taking effect of this act, make known their claims to the said lot or lots, by filing notice thereof in the office of the register of deeds of Yankton county and serving a copy thereof upon said Fuller or his successor in office, and the person to whom he may have conveyed, and in case such notice shall be filed and served as aforesaid, or in case there are other instances where no title has yet been made, the successor of said Fuller shall upon receiving such notice immediately proceed to call a meeting of the occupants of said land, and the same proceedings shall thereafter be had so far as the disputed claims and those where no title has been made are concerned; such proceedings to commence with the calling of such meeting.

When to take
effect

Sec. 18. This act shall take effect and be in force from and after its passage and approval.

Approved, December 18, 1867.