

manage and take charge of the same, who shall account annually to the court the results and condition thereof.

Sec. 37. Such absentee, his heirs, executors or assigns, may at any time take possession of such property, upon application to and with the permission of the court.

Absentee may take possession upon application.

Sec. 38. Questions of title, incidentally arising in proceedings under the provisions of this act, may be fully determined as in actions brought for the recovery of real property and under like issues and evidence.

Questions of title. How determined.

Sec. 39. The proceedings provided for herein shall not be joined with proceedings for the recovery of real property in one and the same action.

Not joined with proceedings for recovery.

Sec. 40. The rules of pleading and practice prescribed by the code of civil procedure shall obtain in all proceedings under the provisions of this act, except as herein changed.

Rules of pleadings and practice prescribed by code of civil procedure shall obtain.

Sec. 41. This act being deemed of immediate importance shall take effect and be in force from and after its passage and approval.

Act to take effect, when.

Approved, Jan. 5, 1869.

## POOR.

### CHAPTER 17.

#### AN ACT FOR THE RELIEF OF THE POOR.

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

Section 1. That the county commissioners of the several organized counties of this Territory, shall be the overseers of the poor within their respective counties, and shall perform all the duties with reference to the poor within their respective counties, that may be prescribed by law.

County commissioners, overseers. Duty of.

**How designated**      **Sec. 2.** That every board of county commissioners shall, in discharging the duties imposed by this act, be designated as overseers of the poor.

**Suits against, how brought**      **Sec. 3.** In all suits or proceedings in favor of or against any such overseers of the poor, pertaining to or connected with the poor of their respective counties, the same, shall be conducted in favor of or against such county in its corporate name.

**Every county shall relieve its poor &c.**      **Sec. 4.** Every county shall relieve and support all poor and indigent persons lawfully settled therein, whenever they shall stand in need thereof, and the board of county commissioners may raise money for the support and employment of the poor in the same way and manner as in the twenty-ninth section of this act is provided.

**Legal settlements may be acquired. Married women.**      **Sec. 5.** Legal settlements may be acquired in any county, so as to oblige such county to relieve and support the persons acquiring such settlement, in case they are poor and stand in need of relief, as follows :

*First,* A married woman shall always follow and have the settlement of her husband, if he have any within the Territory, otherwise her own at the time of her marriage, and if she then had any settlement it shall not be lost or suspended by the marriage ; and in case the wife shall be removed to the place of her settlement, and the husband shall want relief, he shall receive it in the place where his wife shall have the settlement.

**Legitimate children. Male and female over the age of 21.**      *Second,* Legitimate children shall follow and have the settlement of their father, if he have any within the Territory, until they shall gain a settlement of their own, but, if the father have no settlement, they shall in like manner follow and have the settlement of their mother, if she have any.

*Third,* Illegitimate children shall follow and have the settlement of their mother, at the time of their birth, if she then have any within this Territory ; but neither legitimate or illegitimate children shall gain a settlement by birth in the place where they were born, unless their parent or parents had a settlement therein at the time.

*Fourth,* Every male person and every unmarried female over the age of twenty-one years, who shall have resided in

any county in this Territory ninety days, shall thereby gain a settlement in such county.

*Fifth*, Every minor whose parents, and every married woman whose husband, has no settlement in this Territory, who shall have resided ninety days in any county in this Territory, shall thereby gain a settlement in such county.

Minors. Settlement when once acquired

*Sixth*, Every minor who shall be bound as an apprentice to any person, shall immediately upon such binding, if done in good faith, thereby gain a settlement when his or her master or mistress has a settlement.

*Seventh*, Every settlement when once legally acquired, shall continue until it shall be lost or defeated by acquiring a new one in this Territory, or by willful absence from the county in which such legal settlement had been obtained, for ninety days or more, and upon acquiring a new settlement, or upon the happening of such willful absence, all former settlement shall be defeated and lost; and the provisions of this section shall apply to cases of settlements begun to be acquired, or lost, or defeated, as well before as after the provisions of this act shall go into effect.

Sec. 6. The overseers of the poor in each county shall have the oversight and care of all poor persons in their county, so long as they remain a county charge, and shall see that they are properly relieved and taken care of in the manner provided by law.

Overseers to have oversight and care &c.

Sec. 7. It shall be the duty of the overseers of the poor, in counties wherein no common poor house is established, two weeks next preceding the first Monday of May in each year, to give public notice, by having published in the newspaper or newspapers in their respective counties, or in case no such newspaper is published in the county, by posting upon three public places in the county, advertisement certifying the poor that are to be provided for, and asking for sealed proposals for their maintenance during the coming year, which sealed proposals shall be opened and acted on by said overseers of the poor, on the said first Monday in May; but nothing herein contained shall prohibit any overseers of the poor from receiving and accepting propositions, at any time, for the keeping of

Duty of overseer of the poor

such poor persons as may in the interim become a county charge, or of rejecting the propositions of such persons as they know to be unable to fulfill their obligations to the said poor.

Commissioners  
may allow and  
pay in their  
discretion

Sec. 8. The board of county commissioners, may, in their discretion, allow and pay to poor persons who may become chargeable as paupers, and who are of mature years and sound mind, and who, from their general character will probably be benefitted thereby, and also the parents of idiots, and of children otherwise helpless, requiring the attention of their parents, and who are unable to provide for said children themselves such annual allowance as will not exceed the charge of their maintenance in the ordinary mode, the said board taking the usual amount of charges in like cases as the rule for making such allowance.

Duty of, on  
complaint

Sec. 9. It shall be the duty of said overseers of the poor, on any complaint made to them in behalf of the poor, to examine into the ground of such complaint; and if in their judgment, the said poor have not been sufficiently provided with the common necessaries of life, or have in any respect been ill-treated by the person or persons under whose charge they shall have been placed, to withhold any part of the compensation allowed to such person or persons keeping them, as such overseers may deem reasonable and proper, and remove said poor and place them in the care of some other person.

Poor book

Sec. 10. The overseers of the poor shall enter in the poor book of their respective counties, all poor persons in their counties, who are unable to care for themselves, and who shall, in their judgment, be entitled to the benefit of the provisions of this act, together with the date of such entry.

When any poor  
person shall  
suppose he or  
she is entitled  
&c.

Sec. 11. If any poor person shall suppose that he or she is entitled to the benefit of the laws for the relief of the poor, and the overseers of the poor of the county in which he or she resides, shall refuse to give such person the benefit thereof, upon application of such person, the judge of probate of the county may, if he shall think proper, direct the said overseers of the poor to receive him or her on the poor list, on his or her application therefor.

Sec. 12. If any one within the description of poor persons specified in this act, shall be found in any county, and the overseers of the poor of such county shall be unable to ascertain and establish the last place of legal settlement of such person, they shall proceed, in their discretion, to provide for such poor person in the same manner as other persons are hereby directed to be provided for.

When county commissioners unable to determine last residence of poor person. How to proceed

Sec. 13. Whenever any person entitled to temporary relief as a pauper, shall be in any county in which he or she has not a legal settlement, the overseers of the poor thereof may, if the same is deemed advisable, grant such relief, by placing him or her temporarily in the poor house of such county, if there be one, but if there be no poor house, then they shall provide the same relief as is customary in cases where a legal settlement has been obtained.

Whenever entitled to temporary relief

Sec. 14. Upon complaint of any overseer of the poor, any justice of the peace may issue his warrant, directed to and to be executed by any constable, or by any other person therein designated, to cause any poor person found in the county of such overseer, likely to become a public charge, and having no legal settlement therein, to be sent and charged at the expense of the county, to the place where such person belongs, if the same can be conveniently done; but if he or she can not be removed, such person shall be relieved by said overseers whenever such relief is needed.

Upon complaint of overseer, Justice of peace may issue warrant

Sec. 15. If the overseers of the poor of any county in this Territory, to which any pauper shall have been removed as above provided, shall feel themselves aggrieved by such order of removal, they may, at any time within twenty days after such removal shall be known to them, appeal from the decision of the justice ordering such removal, to the probate court of the county from whence the removal was ordered to be made, such appeal to be taken, tried and determined, and costs adjudged, as in other cases of appeal from a judgment of a justice of the peace, and the order of removal may be vacated or affirmed according to the law and right of the case.

Whenever poor person shall feel themselves aggrieved by order of removal. Proceedings

Sec. 16. Such appeal shall be heard at the term of the court next after the same is filed therein, if, in the opinion of the court, reasonable notice of the appeal has been given to the

Appeal. How heard

opposite party ; but, if not thus given, the cause shall stand continued until the next term of the court, and notice of the appeal be then given, if not before done.

When order of removal is defective

Sec. 17. If the order of removal is defective, the court shall permit the same to be amended without costs, and after such amendment is made the appeal shall be heard and determined as if such order had not been defective.

When removed by the provisions of this act

Sec. 18. If any person be removed by virtue of the provisions of this act, from any county, to any other place within this Territory, by warrant or order under the hand and seal of any justice of the peace, as hereinbefore provided, the overseers of the poor of the county to which such person shall be removed, are required to receive such person if he have a legal settlement in their county.

Overseers shall make a return —To whom

Sec. 19. The overseers of the poor shall make a return to the clerk of the board of county commissioners of the sums of money required for the poor of their respective counties, within fifteen days after every such contract hereinbefore provided for, shall have been made, which sums shall be paid quarterly out of the county treasury, upon the order of the board of county commissioners, in the same manner as other claims of the county are paid.

Pay of

Sec. 20. The overseers of the poor in each county in the Territory shall be entitled to receive each two dollars per day for each and every day during which they shall be necessarily employed in the discharge of their several duties as such, to be allowed by the board of county commissioners.

When overseer shall remove out of his proper county

Sec. 21. If any overseer of the poor shall remove out of his proper county, he shall previous to his removal, deliver over to his associates in office, all books, papers, and other things pertaining to his official position ; and upon the death of any overseer, his executors or administrators shall, within forty days after his decease, deliver over all things belonging to his office to his associates, who may thereupon proceed to select from the qualified voters of the county, a suitable person to fill the place vacated by said removal or decease.

Shall submit their accounts —When

Sec. 22. The overseers of the poor of the several counties, shall annually, at the first session of the board of county commissioners in the year, submit their accounts and make report

of their proceedings for the past year, which report shall be presented to the clerk of the board of county commissioners at least one day prior to the meeting of said board, and said board may then credit and allow said accounts so presented, and may draw on the county treasurer therefor, whose duty it shall be to pay the same out of any money in the county treasury not otherwise appropriated.

Sec. 23. It shall be the duty of the overseers of the poor, on complaint made to them that any person, not an inhabitant of their county, is lying sick therein, or in distress, without friends or money, so that he or she is likely to suffer, to examine into the case of such person, and grant such temporary relief as the nature of the same may require; and if any person shall die within any county, who shall not leave money or other means necessary to defray his or her funeral expenses, it shall be the duty of the overseers of the poor of such county, to employ some person to provide for and superintend the burial of such deceased person, and the necessary and reasonable expenses thereof shall be paid by the county treasurer upon the order of such overseers.

Duty of overseer when a non-resident of the county is lying sick. If person shall die, leaving no means

Sec. 24. It shall be lawful for the board of county commissioners in the several counties of this Territory, after having submitted the question to the legal voters of their counties, by calling a special election for the purpose whenever the said commissioners may deem it advisable, and if at said election a majority of the legal voters shall vote in favor of the proposition to purchase a tract of land in the name of their respective counties, and thereon to build, establish and organize an asylum for the poor, and to employ some humane and responsible person or persons, resident in their respective counties, to take charge of the same upon such terms and under such restrictions as the board shall consider most advantageous for the interests of the county, who shall be called "superintendent of the county asylum," and when two or more counties shall have jointly purchased any tract of land and erected an asylum for the poor of their respective counties, they shall have the power to continue such joint ownership during their pleasure; and it shall be lawful for the county commissioners of two or more counties, after having been so authorized by a majority of the

Lawful to call an election for what.

legal voters of their respective counties, in the manner prescribed in this section, to jointly purchase lands, and erect asylums, and to do other things necessary and proper for the relief of the poor within the counties forming such joint ownership as is by this act provided for their respective counties.

Duty of  
superintendent  
or super-  
intendants

Sec. 25 It shall be the duty of such superintendent or superintendents, to receive into his or their care and custody all persons who may become a county charge, as paupers, and to take such measures for the employment and support of such paupers, and to perform such other duties as the board of county commissioners shall, from time to time, order, establish and direct, consistent with the laws of this Territory.

Shall appoint  
annually a  
physician.  
Compensation

Sec. 26. It shall be the duty of the county commissioners to appoint, annually, a well qualified physician to attend the county asylum, and allow him a reasonable compensation for his services.

To bind out poor  
children

Sec. 27. It shall be the duty of the overseers of the poor of the different counties, and also of the superintendents of the county asylums, to bind out such poor children as fall under their care and charge, from time to time; and it shall also be the duty of said overseers to see that children so bound be properly treated, by the persons to whom they are bound, and to take legal means of redress in case of maltreatment.

Power of county  
commissioners  
to raise money  
for certain  
purposes

Sec. 28. To raise the sum necessary for the purchase of land, and the erection and furnishing of buildings for such asylums, the board of county commissioners in the several counties shall have power to assess a tax on property liable to taxation for raising a county revenue, not exceeding five hundred dollars, unless the amount of taxes to be assessed shall be submitted to a vote of the people at the special election held pursuant to section twenty-four of this act, and a majority of all the votes cast at said poll be in favor of such assessment.

Shall order all  
persons who are  
public charges  
to be removed to  
such asylum

Sec. 29. So soon as the necessary provisions may be made by the erection of suitable buildings, the said board shall direct and order that all persons who have become permanent charges as paupers in the county be removed to such asylum, and shall take such measures for the employment and support of such paupers as they may deem advisable, and thereafter the overseers of the poor shall, from time to time, as persons

may become permanent charges, as paupers, to their respective counties, have such persons removed to the said asylum.

Sec. 30. Such superintendent or superintendents shall give bond, with freehold security, to said board, in the penalty of five hundred dollars, conditioned for the faithful discharge of his or their duty, and he, or they, shall make to such board, at the first and third sessions of each year, a detailed report in writing, of the time and manner of the admission of each pauper, their health and fitness to labor, the results of their industry, and the expenses incurred; and it shall be the duty of the members of such board, in person, to annually inspect said asylum, with regard to its fitness, in all respects, for the objects of its establishment.

Superintendent and superintendents to give bond with freehold security  
—sum

Sec. 31. Whenever it shall be necessary and practicable, poor children of the asylums, who cannot be bound out, or whom it may not be expedient to bind out as apprentices, shall be educated thereat.

When poor children cannot be bound out

Sec. 32. It shall be the duty of the superintendent or superintendents of any asylum, erected or established by law, to superintend and direct the education of such poor children, according to the preceding provisions of this act, and for the purpose of carrying the same into effect with the least possible expense, it shall be the duty of the said superintendent to send them to any common school within the county in which the asylum is situated, during the countenance of its session.

Shall superintend the education &c., of such children

Sec. 33. Any asylum or farm, provided by the board of county commissioners for the purpose may be discontinued by said board, and the property real and personal, relating thereto, which belongs to the county, may be sold, leased, or otherwise disposed of, or applied in such manner as may be best for the interests of the county.

Asylum may be discontinued, property may be leased or sold

Sec. 34. The board of county commissioners may, in the several counties in this Territory, if they deem it expedient, annually, at their session at which the county tax is ordered to be levied and assessed, levy and assess a tax for the support of the poor of their respective counties, on objects from which the county revenue is or may be directed to be raised. The tax hereby authorized to be raised shall be collected by the same officers whose duty it may be to collect the Territorial and

May levy a tax for the support of the poor in their several counties

county revenue, who shall pay the same into the county treasury.

Decisions of justice of peace may be appealed from.—How

Sec. 35. All decisions of any justice of the peace, in any matter, proceeding or suit authorized by this law, may be appealed from in like manner, and under like regulations and restrictions of law, as in other cases.

Commissioners may appoint a board of visitors To consist of

Sec. 36. The board of county commissioners in any county in this Territory may, in their discretion, appoint a board of visitors annually, to consist of three persons residents of the county, to visit at least once in each year the asylum of such county, and to report to the commissioners its condition, and the treatment, management and condition of the inmates thereof.

Compensation of

Sec. 37. Such visitors shall receive such compensation as the said board shall adjudge reasonable.

Unlawful to send pauper out of county where such pauper belongs

Sec. 38. It shall be unlawful for any person, either directly or indirectly, to send, or be instrumental in sending, or causing to be sent, out of the county where such person properly belongs, any pauper, or person who is, or is likely to become, an object of public charity, into any other county of this Territory, except in the manner provided for in this act.

Violation of section 38.—What

Sec. 39. Any person who shall violate the provisions of section thirty-eight of this act, shall be deemed guilty of a misdemeanor, and shall be liable to a fine of not exceeding one hundred dollars, or imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

All acts and parts of, conflicting with this repealed

Sec. 40. All acts and parts of acts in any way conflicting with the provisions of this act are hereby repealed.

Act to take effect —When

Sec. 41. This act shall take effect and be in force from and after its passage and approval.

Approved, Jan. 12, 1869.