

# JUDICIAL DISTRICTS.

## CHAPTER LV.

### DEFINING THE JUDICIAL DISTRICTS OF DAKOTA TERRITORY.

AN ACT to define the Judicial Districts of Dakota Territory and to provide for holding courts therein.

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

SECTION 1. That the counties of Clay, Union, Lincoln, Minnehaha, McCook, Moody, Lake, Brookings, Wood, Deuel, Hamlin, Clark, Grant, Greeley and Stone, and the Sisseton and Wahpeton Indian Reservation, shall constitute the first judicial district.

Defining the first judicial district.

SEC. 2. All that portion of the Territory bounded and described as follows, viz: Commencing at the northeast corner of the Sisseton and Wahpeton Indian Reservation, thence along the north line of said reservation to the northwest corner thereof; thence southerly along the western boundary of said reservation to the intersection with the forty-sixth parallel of latitude; thence west along said parallel to the west or right bank of the Missouri river at low water mark; thence down along the said west or right bank at low water mark to the mouth of Grand river; thence up the center of the main channel of Grand river to the mouth of Ree river; thence up the main channel of the Ree river to the point of intersection with the one hundred and third meridian of west longitude; thence due west to the Little Missouri river; thence up the main channel of the Little Missouri river to its intersection with the western boundary of the Territory; thence north along the west boundary of said Territory to the northern boundary thereof; thence east along the northern boundary of said Territory to the northeast corner of said Territory; thence southerly along the eastern boundary of said Territory to the place of beginning, shall constitute the third judicial district.

Defining the third judicial district.

What to constitute the second district.

SEC. 3. All that portion of the Territory not embraced within the bounds of the first and third districts as herein defined, shall constitute the second judicial district.

United States criminal causes pending, how disposed of.

SEC. 4. All criminal cases in which the United States is a party, shall be tried and disposed of in the court for the district in which they are now pending unless the place of trial shall be changed as provided by law.

Place of holding court in Burleigh county.

SEC. 5. The district court in and for the county of Burleigh shall be held at Bismarck on the second Tuesday of May and the third Tuesday of September in each year.

In Cass county.

SEC. 6. The district court in and for the county of Cass shall be held at Fargo on the fourth Tuesday of May and the first Tuesday of September in each year.

Certain district courts to exercise powers of U. S. courts.

SEC. 7. The district courts in and for the counties of Clay, Yankton and Cass shall exercise the powers appertaining to district and circuit courts of the United States for the several districts in which they are located.

When to take effect.

SEC. 8. All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect from and after its passage and approval.

Approved, December 22, 1874.

## CHAPTER LVI.

### DIVIDING THE JUDICIAL DISTRICTS INTO SUBDIVISIONS.

AN ACT dividing the judicial districts of this territory into subdivisions, and providing for the holding of the district courts in the different counties and subdivisions thereof.

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

How first district to be subdivided.

SECTION 1. That the first judicial district shall be subdivided as follows:

Clay county.

The county of Clay shall constitute one subdivision and the district court shall be therein held on the second Tuesday of February and November in each year.

Union county.

The county of Union shall constitute one subdivision, and the district court shall be therein held on the second Tuesday of June and first Tuesday of December in each year.

The county of Lincoln shall constitute one subdivision, and the district court shall be therein held on the first Tuesday of April and October in each year: *Provided however*, That only one term of court shall be held in each year, which shall be on the first Tuesday of October, except at the request of the county commissioners, in which case there shall be held the April terms.

Lincoln county

Proviso.

The county of Minnehaha shall constitute one subdivision, and the district court shall be therein held on the third Tuesday of May in each year

Minnehaha county.

The counties of Lake, Moody, Brookings, and all other portions of the first judicial district not included in any other subdivision shall constitute one subdivision, and the judge of the district court after receiving notice from the county commissioners of Moody county that a term of court is required to be held in this subdivision, shall appoint and hold terms of court at Flandreau, the county seat of Moody county, and in such case if there shall be at any term any business from either of the other counties of this subdivision in such court, such county shall pay its proportionate share of the expenses of such court under the provisions of this act, but not otherwise.

Other counties and sections.

SEC. 2. The second judicial district shall be subdivided as follows:

How second district shall be subdivided.

The county of Bon Homme shall constitute one subdivision, and the district court shall be therein held at the town of Bon Homme on the third Tuesday of March and September of each year.

Bon Homme county.

The counties of Charles Mix, Brule, Buffalo, Hyde, Hughes, Douglass and Sully shall constitute one subdivision, and the district court shall be therein held at Brule City, in Brule county, on the second Tuesday of August in each year, subject however to the provisions of section four of this act relating to the appointment of terms by the district judge.

Charles Mix, Brule and other counties.

The county of Turner shall constitute one subdivision, and the district court shall be therein held whenever required as now provided by law.

Turner county.

The county of Yankton, and all other portions of the said judicial district not included in any other subdivision shall constitute one subdivision, and the general term of the dis-

Yankton county.

district court shall be therein held at the city of Yankton on the second Tuesday of April and October in each year, and in addition thereto special terms shall be held at said city of Yankton as now provided by law for Yankton county.

Hutchinson and other counties.

Hutchinson, Armstrong, Hanson and Davidson counties shall constitute one subdivision, and one term in each year of the district court shall be held therein at such time and place as the judge shall appoint.

How third district to be subdivided.

SEC. 3. The third judicial district shall be divided as follows:

Cass, Stutsman and other counties.

The counties of Cass, Stutsman, Richland, Ransom, La Moure, Traill, Grand Forks, Pembina, Barnes (heretofore known as Burbank) Foster, Ramsey, Cavalier, Gingras, French and Rollette as heretofore known and named shall constitute one subdivision, and the district court shall be therein held at the county seat of Cass county on the fourth Tuesday of May and first Tuesday of September in each year.

The other portions.

All the remaining portion of the said third judicial district shall constitute another subdivision thereof, and the district court shall be therein held at the county seat of Burleigh county on the second Tuesday of May and third Tuesday of September in each year.

Power of judge to appoint where courts to be held.

SEC. 4. The judges of the district courts respectively shall have the authority at any time to appoint by an order to that effect courts to be holden in any county of a subdivision composed of two or more counties, and from the time of the making of such order such county wherein courts are so appointed shall cease to be a part of the subdivision herein provided, and shall constitute a subdivision of itself and the district courts shall be therein held at the county seat of such county at the times provided in such order.

Number of names to be selected for jurors.

SEC. 5. Two hundred instead of sixty names shall be selected and furnished to the clerks of the district courts by the county commissioners and register of deeds from which to draw the grand and petit jurors, and such number shall at all times be kept full by completing the number after each term of the court when a jury or juries have been drawn and summoned; and to carry out the provisions of this act the county commissioners of the several counties composing each

a subdivision shall as soon after the passage of this act as practicable furnish to the clerk of the district court of their respective counties the names of two hundred persons selected from the tax list as now provided by law, which names shall be put into a box and drawn from as now provided by law for drawing from sixty names, and at the end of each term of the district court the clerk thereof shall make requisition upon the county commissioners for the furnishing of so many names as have been drawn, so as to keep the said number full as before provided, and such county commissioners shall at their first meeting after receiving such requisition furnish such number of names so selected from the tax list to complete and keep full such number of two hundred.

Duty of commissioners to furnish names to clerk of court.

SEC. 6. To enable juries to be drawn and summoned in those subdivisions composed of two or more counties, the registers of deeds of all the organized counties therein shall as soon as practicable after the passage of this act, and yearly thereafter, as soon as the assessment roll is returned, furnish to the clerk of the district court of that subdivision the aggregate number of names appearing upon the assessment roll of their counties respectively if such county shall have such assessment roll, and the clerk of such district court shall thereupon and yearly thereafter make requisition upon the county commissioners for the proportionate number of names to be furnished by each county of the subdivision respectively to make up the number of two hundred, each county to furnish such proportion as the number of names upon their assessment roll bears to the aggregate of all the assessment rolls of the counties of such subdivision, and thereupon from time to time as such requisition shall be made the county commissioners shall furnish the required number of names, and from the two hundred names so furnished the grand and petit juries shall be drawn by such district court clerk and sheriff of the county where the court is held by lot as now provided by law.

Duty of register of deeds in certain cases

Clerk of court to make requisition.

SEC. 7. If one or more counties shall fail to furnish their proportionate, or any number of names, such juries shall be drawn from those names that shall be furnished, and the judges of the district courts respectively are authorized and empowered to make any rule or order that shall be by them deemed necessary, or to cause any act or thing to be done to effect the drawing or summoning of either a grand or petit

Where subdivision fails to furnish its proportion of jurors.

jury from such subdivision, and shall at any time have the power to cause a jury, either grand or petit, to be summoned for such district court from the body of such subdivision, and no omission of any act altogether, or the failure to perform it within the time herein prescribed shall be cause of challenge of any individual juror or to the panel.

Clerk of court to furnish venire to sheriff.

SEC. 8. When a jury is drawn from the names so furnished the clerk of the court shall issue his venire to the sheriff of the counties respectively from whence the jurors are drawn, which shall be by such sheriff served and returned to such clerk as in other cases; and any officer or person failing to perform his duty as required in this act, shall be liable to attachment for contempt of court and subject to such fine and imprisonment, or either, as the court shall impose, not exceeding one hundred dollars' fine and thirty days' imprisonment.

Authority of sheriff in certain cases.

SEC. 9. To carry out the provisions of this act the sheriff of the county where the court is held shall have the authority to execute all proper process in any county or other place composing such subdivision the same as though such subdivision was composed of one county only.

Registers to transmit statement of assessment to clerk of court.

SEC. 10. For the purpose of paying the expenses of holding courts in those subdivisions composed of two or more counties, the different registers of deeds of the organized counties therein shall as soon after the passage of this act as practicable, and annually thereafter as soon as the assessment roll is received, transmit to the clerk of the court of that county where the court is held, a statement of the aggregate amount of the assessment roll of their counties respectively, and at the close of each term of the district court such clerk shall, under the supervision of the judge, calculate the expenses of such term and the proportionate amount to be paid by each organized county, according to the proportion which the amount of the assessment roll bears to the aggregate amount of all the assessment rolls in such subdivision, and shall draw orders in favor of the persons to whom such expenses shall be due upon the treasurers of such counties for such proportionate amounts, which orders shall be registered and paid as other county orders or warrants are paid, and such clerk shall thereupon as soon as such proportionate amount is as-

Duty of judge and clerk respecting payment of expenses.

certained by him, furnish to the registers of deeds respectively, for the use of the county commissioners, the amount thereof.

SEC. 11. If any county shall fail to so furnish a statement of the amount of its assessment roll, or if no assessment shall be made therein, the judge shall have the power by an order to fix the proportionate amount of the expenses of the court which such county shall pay, and the clerk shall then draw the orders upon the treasurer of such county accordingly, which shall be registered and paid as before provided, and the judge of such district court may at any time by a mandamus compel the assessment and levy of a tax or the doing of any other act or thing to carry out the provisions of this act.

Power of judge where county fails to furnish assessment.

SEC. 12. The judges of the district courts respectively shall have the power to appoint a clerk of the district court in each of the counties of his district, who shall have the right to administer oaths, take acknowledgments of deeds and other instruments, and who shall procure and keep a seal of the court for that county, and when courts are appointed therein shall perform all other duties pertaining to that office.

Judge to appoint clerks.

SEC. 13. All pleadings, process and proceedings shall be entitled, and the venue shall be laid in that county where the court is held, the same as though such subdivision was composed only of that county.

Venue, where laid.

SEC. 14. In all the laws of this territory regulating or affecting the practice in the courts, wherever the term county is used it shall be deemed and held to include and mean subdivision as well.

County to include subdivision.

SEC. 15. All civil process issuing from any of the courts of this territory or by virtue of any of the practice acts shall run in the name of "The Territory of Dakota."

Name in which process shall run.

SEC. 16. The judges of the district courts respectively shall have the power whenever thereunto requested by the county commissioners, by an order to that effect to appoint and hold additional terms of the district court in any county or subdivision, and such judges shall have the power to adjourn the courts from time to time as they shall deem expedient for the due administration of justice; and the courts herein appointed shall continue so long as the business therein shall require.

When judges may hold additional terms of court.

When to take  
effect.

SEC. 17. This act shall take effect and be in force from and after its passage and approval: *Provided, however,* That this act shall in no case apply to unorganized counties until they shall have been organized as provided by law.

Approved, January 15, 1875.

## JURORS IN CIVIL CASES.

### CHAPTER LVII.

#### RELATING TO CHALLENGING JURORS IN CIVIL CASES.

AN ACT relating to the challenging of jurors in civil cases.

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

Relating to  
the challenging  
of jurors.

SECTION 1. That to chapter III of title VIII of the code of civil procedure be added as section 218, the following:

Number of  
challenges.

Either party to a civil action, when the trial is by jury, may challenge the jurors, but where there are several parties on either side, they must join in a challenge before it can be made. The challenges are to individual jurors, and are either peremptory or for cause. Each party is entitled to three peremptory challenges. If no peremptory challenges are taken until the twelve jurors are in the box, these must be taken by the parties alternately, commencing with the plaintiff.

On what  
grounds chal-  
lenges for cause  
may be taken.

SEC. 2. Challenges for cause may be taken on one or more of the following grounds:

1st. A want of any of the qualifications prescribed by law, to render a person competent as a juror;

2d. Consanguinity or affinity within the fourth degree, to any party;

3d. Standing in the relation of guardian and ward, master and servant, employer and clerk, or principal and agent to either party, or being a member of the family of either party or a partner in business with either party, or surety on any bond or obligation for either party;