

court as provided in the preceding section, shall be binding on both, and during such absence or imprisonment the person acting under such power may sue and be sued thereon, and for all acts done, the property of both shall be liable, and execution may be levied or attachment issued thereon according to statute. No suit or proceeding shall abate or be in any wise affected by the return or release of the person confined, but he or she may be permitted to prosecute or defend jointly with the other.

§ 3. WHEN ORDER OF COURT MAY BE SET ASIDE.] The husband or wife affected by the proceedings contemplated in the two preceding sections, may have the order or decree of the court set aside or annulled by affidavit of such party, setting forth fully the facts and supported by such other testimony as the court shall deem proper. Notice of such proceedings to set aside and annul such order must be given the person in whose favor the same was granted, and shall be served as summons are served in ordinary actions. The setting aside of such decree or order shall in no wise affect any act done thereunder.

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

Approved, February 23, 1883.

Insurance.

CHAPTER 69.

AN Act to Revise and Amend Article XI of the Civil Code, Entitled of Insurance Companies.

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

§ 1. WHO MAY INCORPORATE—PURPOSES.] That any number of persons, not less than seven, may associate and form an incorporated company for the following purposes, to-wit: To make insurance on dwelling houses, stores and all kinds of buildings, and upon household furniture and other property, against loss or damage by fire or lightning or wind and the risks of inland navigation and transportation. Any and all insurance companies hereafter incorporated under the provisions of this act, which shall, in the

declaration and charter provided to be filed, have expressed an intention to make insurance, or which shall have power to make insurance against loss or damage by the risks of inland navigation or transportation, shall have power to make insurance upon vessels, boats, cargoes, goods, merchandise, freights and other property, against loss and damage by all or any of the risks of lake, river, canal and inland navigation and transportation.

§ 2. MAY REINSURE.] Any companies organized under this act shall have power to effect reinsurance of any risks taken by them respectively.

§ 3. DECLARATION—COPY OF CHARTER.] Such persons shall file in the office of the Territorial Auditor, a declaration, signed by all the corporators, expressing their intention to form a company for the purpose of transacting the business of insurance, as expressed in the first section of this act, which declaration shall also comprise a copy of the charter proposed to be adopted by them, and shall publish a notice of such their intention, once in each week, at least four weeks in a public newspaper in the county in which such insurance company is proposed to be located.

§ 4. FORM OF CHARTER.] The charter comprised in such declaration shall set forth the name of the company, the place where the principal office for the transaction of its business shall be located, the mode and manner in which the corporate powers granted by this act are to be exercised, the mode and manner of electing directors—a majority of whom shall be citizens of this Territory—and of filling vacancies, (but each director of a company shall be the owner in his own right of at least five hundred dollars worth of the stock of such company), the period for the commencement and termination of its fiscal year, and the amount of capital to be employed in the transaction of its business. And the Territorial Auditor shall have the right to reject any name or title of any company applied for when he shall deem the name too similar to any one already appropriated, or likely to mislead the public in any respect.

§ 5. RESTRICTIONS.] No company formed under this act shall, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise, or other commodities whatever, excepting such articles as may have been insured by such company and are claimed to be damaged by fire, lightning, wind, or water.

§ 6. CAPITAL OF COMPANIES.] No company shall be incorporated under this act with a smaller capital than fifty thousand dollars, actually paid in cash, and shall at all times be provided with cash on hand equal, at least, to ten per centum of its capital.

RISKS OF FIRE INSURANCE COMPANIES.] No fire insurance company organized under this act, or transacting business in this

Territory, shall expose itself to any loss on any one fire or inland navigation risk or hazard to any amount exceeding ten per cent. of its paid up capital.

§ 7. OPENING BOOKS FOR SUBSCRIPTION FOR STOCK.] It shall and may be lawful for the individuals associated for the purpose of organizing any company under this act, after having published the notice and filed the declaration and charter as required by the third section of this act, and also on filing in the office of the Territorial Auditor proof of such publication by the affidavit of the publisher of such newspaper, his foreman or clerk, to open books for subscription to the capital stock of the company so intended to be organized, and to keep the same open until the full amount specified in the charter is subscribed.

§ 8. INVESTMENT OF CAPITAL.] It shall be lawful for any insurance company organized under this act, or any such company incorporated under any law of this Territory to invest its capital and the fund accumulated in the course of its business, or any part thereof, in bonds and mortgages on improved unincumbered real estate within the Territory of Dakota, worth fifty per cent. more than the sum loaned thereon, (exclusive of buildings, unless such buildings are insured and the policy transferred to said company,) 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, and to lend the same or any party 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 as occasion may from time to time require; but any surplus money over and above the capital stock of such fire and inland navigation insurance companies, incorporated under any law of this Territory, may be invested in or loaned upon the pledge of the public stocks or bonds of the United States, or any of the States, or the stocks, bonds or other evidences of indebtedness of any solvent, dividend paying institution, incorporated under the laws of this Territory, or by the United States, except their own stock.

Provided, always, That the current market value of such stocks, bonds and other evidences of indebtedness shall be at all times, during the continuance of such loans, at least ten per cent. more than the amount loaned thereon.

§ 9. WHAT REAL ESTATE COMPANY MAY HOLD—SALE.] No company organized by or under this act, 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 by way of 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 their legitimate business, or for money due ; or,

4. Such as have been purchased at sales upon judgments, decrees or mortgages 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.

§ 10. CHARTER, ETC., EXAMINED BY DISTRICT ATTORNEY--CAPITAL, BY TERRITORIAL AUDITOR—CERTIFICATE FILED—COMMENCE BUSINESS—EVIDENCE.] The charter and proof of publication herein required to be filed by every such company shall be examined by the district attorney of the judicial district in which the principal office of the company is located, and if found conformable to this act, and not inconsistent with the constitution, or laws of this Territory, shall be certified by him to the Territorial Auditor, who shall thereupon cause an examination to be made, either by himself or three disinterested persons, especially appointed by him for that purpose, who shall certify, under oath, that the capital herein required of the company named in the charter, according to the nature of the business proposed to be transacted by such company, has been paid in, and is possessed by it in money, or in such stocks and bonds and mortgages as are required by the 8th section of this act. Such certificate shall be filed in the office of the said Auditor, who shall thereupon deliver to such company a certified copy of the charter and of said certificates, which on being filed in the office of the clerk of the county where the company is to be located, shall be their authority to commence business and issue policies ; and such certified copy of the charter and of said certificates may be used in evidence for or against said company, with the same effect with the originals, and shall be conclusive evidence of the fact of the organization of such company.

§ 11. BY-LAWS—SEAL.] The corporators or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the constitution or laws of this Territory, as may be deemed necessary for the government of its officers and the 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.

§ 12. DIVIDEND "YEAR" DEFINED.] It shall not be lawful for the directors or managers of any such insurance company to make

any dividend except from the surplus profits arising from their business; and in estimating such profits there shall be reserved therefrom a sum equal to the whole amount of unearned premiums on unexpired risks and policies; and also there shall be reserved all sums due the corporation on bonds and mortgages, stocks and book accounts, of which no part of the principal or interest thereon has been paid during the last year, and for which foreclosure or suit has been commenced for collection, or which, after judgment obtained thereon, shall remain more than two years unsatisfied, and on which interest shall not have been paid; and also there shall be reserved all interest due or accrued and remaining unpaid:

Provided always, That any company may declare dividends not exceeding ten per cent. on its capital stock in any one year, that shall have accumulated, and be in possession of a fund, in addition to the amount of its capital stock, and of such dividend, and all actual outstanding liabilities, equal to one half of the amount of all premiums on risks not terminated at the time of making such dividend. Any dividend made contrary to these provisions, shall subject the company making the same to a forfeiture of its charter, and each stockholder receiving it to a liability to the creditors of such company to the extent of the dividend received. The word "year" whenever used in this section, shall be construed to mean the calendar year.

§ 13. COMPANIES MAY EXTEND CHARTER.] Any existing insurance company heretofore incorporated under the laws of this Territory, and any company organized under this act, having a capital of at least fifty thousand dollars, may, without increasing its capital, at any time within two years previous to the termination of its charter, after giving notice at least once a week for four weeks successively, in a newspaper published in the county where such company is located, of such intention, with a declaration under its corporate seal, signed by the president and two thirds of the directors of their desire for such extension, extend the term of its original charter to the time specified in the thirty-six (36) section of this act, by altering or amending the same so as to accord with the provisions of this act, and filing a copy of such amended charter with the declaration aforesaid, in the office of the Territorial Auditor, whereupon the same proceedings shall be had as are required in the tenth section of this act.

§ 14. INCREASE OF CAPITAL STOCK.] Any existing fire insurance company, and any company formed under this law, may at any time increase the amount of its capital stock, after notice given once a week for four weeks in any newspaper published in the county where such company is located, of such intention, with the written consent of three fourths, in amount, of its stockholders,

unless otherwise provided in its charter, by altering or amending its charter in this respect, and filing a copy of their charter so amended, together with a declaration under its corporate seal, signed by its president and directors, of their desire so to do, with such consent of three fourths, in amount, of its stockholders to such increase, in the office of the Territorial Auditor, and upon the same proceedings had as are required by the tenth section of this act.

§ 15. COMPANIES HERETOFORE FORMED SUBJECT TO THIS ACT.] All insurance companies heretofore organized in the Territory of Dakota, and now doing business in this Territory, are hereby brought under all the provisions of this act, except that their capitals may continue of the amounts and character named in and authorized by their respective charters, during the existing term of such charters, and the investments of the capital and assets of such companies may remain the same as prescribed by their charters, anything in this act to the contrary notwithstanding, and such companies shall also be entitled to all the privileges and powers granted by said charters:

Provided, That this section shall not be construed as in any manner to interfere with any insurance company heretofore organized and doing business in this Territory.

§ 16. ANNUAL STATEMENTS] Every insurance company doing business in this Territory must transmit to the Territorial Auditor a statement of its condition and business for the year ending on the preceding 31st day of December, which shall be rendered on the first day of January in each year, or within one month thereafter, except that foreign insurance companies shall transmit their statement of business, other than that done in the United States, prior to the following first day of May. Such statement must be published at least three times in some newspaper of general circulation printed and published in each judicial district of this Territory in which such insurance company shall have an agency, and a duplicate thereof, upon which shall be endorsed the names of the attorneys on whom process of law can be served as required in section 23 of this act, shall be filed in the office of the register of deeds of the county wherein an agency may be established. Statements for publication shall be made out on blanks furnished by the Territorial Auditor and the Territorial Auditor's certificate of authority for the company to do business in this Territory shall be published in connection with the said statement of each company doing business in this Territory. Proof of publication, to-wit: The printer's affidavit of the fact shall be filed with the Territorial Auditor in all cases.

§ 17. FORM OF ANNUAL STATEMENT.] The annual statement

required by the last section must be in form and state particulars as follows:

First. The name of the company and where located.

Second. The name and residence of attorney for this Territory.

Third. The amount of capital stock actually paid in cash.

Fourth. The property or assets of the company, specifying:

1. The value, as nearly as may be, of the real estate owned by the company.

2. The amount of cash on hand in office.

3. The amount of cash on deposit in bank.

4. The amount of cash in the hands of agents, and in course of transmission.

5. The amount of loans secured by mortgages and bonds being the first lien on real estate worth double the amount of the sum loaned thereon.

6. The amount of stock and bonds owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock on the day of making statement.

7. The amount of stocks held by them as collateral security for loans, with the amount loaned on each kind of stock and par market value on the day of making statement.

8. The amount of all other sums due the company.

Fifth. The liability of such company, specifying:

1. The amount of losses and yet unpaid.

2. The amount of claims for losses resisted by the company.

3. The whole amount of unearned premiums on outstanding risks.

4. The amount of dividends declared and due and remaining unpaid.

5. The amount of dividends, if any, declared but not yet due.

6. The amount of money borrowed and remaining unpaid, and security, if any, given for the payment thereof.

7. The amount of all other existing claims.

Sixth—The income of the company during the preceding year, specifying:

1. The whole amount of cash premiums received, stating separately amount of premiums received on policies written in the Territory of Dakota.

2. The whole amount of interest money received, stating separately the amount of interest received on loans in the Territory of Dakota.

3. The whole amount of income received from all sources.

Seventh—Expenditures during the preceding year, specifying :

1. The whole amount of losses paid during the preceding year, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement. Also stating separately the amount of losses paid upon risks taken in this Territory and how much accrued prior, and how much subsequent, to the preceding statement.

2. The amount of dividends paid during the preceding year.

3. The whole amount of commissions and fees paid to officers and agents during the preceding year.

4. The amount of taxes paid during the preceding year, stating separately amount paid in this Territory.

5. The amount of fees paid the Auditor of this Territory, (not including taxes.)

6. The whole amount paid for salaries of officers and agents during the preceding year.

7. The whole amount of all other expenditures.

Eighth—Specifying :

1. The gross amount of risks taken during the preceding year, stating the amount in this Territory separately.

2. The whole amount of risks outstanding.

3. The whole amount of losses incurred during the year, including those claimed and not yet due, stating separately those incurred in this Territory.

4. The number of agents in this Territory.

§ 18. AUDITOR MAY REQUIRE ADDITIONAL STATEMENTS.] The Territorial Auditor may require, at any time, statements from any company doing business in this Territory, or any of its officers or agents, on such points as he may deem necessary and proper to elicit a full exhibit of its business and standing.

§ 19. STATEMENTS TO BE VERIFIED AND PUBLISHED.] The statements required under this act must be verified by the signature and oath of the president or vice president, with those of the secretary or actuary, or by the manager or general agent of a foreign company having jurisdiction in this Territory. And it shall be the duty of the Territorial Auditor to cause the information contained in the statements required by this act, to be arranged in a tabular form and printed annually and transmitted to the Territorial Legislature, with his biennial report ; also for distribution to the companies doing business in this Territory.

§ 20. WHEN COMPANY PROHIBITED FROM BUSINESS.] No company having neglected to file the statement required from it,

within the time and manner prescribed, shall do any new business, after a notification by the Auditor, while such neglect continues.

§ 21. FORFEIT.] Any company willfully neglecting to make and transmit any statement required shall forfeit one hundred dollars for each week's delay.

§ 22. AUDITOR MAY PREVENT PUBLICATION.] The Territorial Auditor has authority to prevent the publication of any part or all of the statement of any company made under this act, until his annual report is made.

§ 23. FOREIGN COMPANIES—AGENT—SERVICE OF PROCESS.] It shall not be lawful for any insurance company, association or partnership incorporated by or organized under the laws of any other State of the United States, Territory, or any foreign government, for any of the purposes specified in this act, directly or indirectly to take risks, or transact any business of insurance in this Territory until such company in addition to the other requirements of law, shall deposit with the Territorial Treasurer a sum of not less than twenty-five thousand dollars in cash or treasury notes, or bonds of the United States, or bonds of the Territory of Dakota, which deposit shall be held for the benefit and security of the policy holders residing in this Territory, with the condition that said deposit shall not be surrendered until all claims in this Territory shall be satisfied; and any such company desiring to transact any such business as aforesaid, by any agent or agents in this Territory, shall first appoint an attorney in each judicial district in this Territory, on whom process of law can be served, and file in the office of the Territorial Auditor a written instrument, duly signed and sealed, certifying such appointments, which shall continue until other attorneys be substituted; and any process issued by any court of record in this Territory, and served upon such attorneys by the proper officer of the judicial district in which such attorney may reside or may be found, shall be deemed a sufficient service of process upon such company.

§ 24. SERVICE AFTER THE COMPANY STOPS BUSINESS.] In case any insurance company, not incorporated in this Territory, shall cease to transact business in this Territory according to the laws thereof, the attorney last designated, or acting as such for such corporation, shall be deemed to continue attorney for such corporation for the purpose of serving process for commencing action upon any policy or liability issued or contracted while such corporation transacted business in this Territory, and service of such process, for the causes aforesaid, upon any such attorney, shall be deemed a valid personal service upon such corporation.

§ 25. COPY OF CHARTER, ETC., FILED WITH AUDITOR.] And every such company, association or partnership, shall also file a certified copy of their charter, or deed of settlement, together with a statement, under the oath of the President or Vice President, or other chief officer, and Secretary of the company for which he or they may act, stating the name of the company and place where located, the amount of its capital, with a detailed statement of its assets, showing the amount of cash on hand, in bank, or in the hands of agents.

The amount of real estate, and how much the same is encumbered by mortgage.

The number of shares of stock of every kind owned by the company.

The par and market value of the same.

Amount loaned on bond and mortgage.

The amount loaned on other security, stating the kind and the amount loaned on each, and the estimated value of the whole amount of such securities, and other assets or property of the company.

Also stating the indebtedness of the company.

The amount of losses adjusted and unpaid.

The amount incurred and in process of adjustment.

The amount resisted by the company as illegal and fraudulent.

And all other claims existing against the company.

Also a report of the last annual report, if any, made under any law of the State or country, by which such company was incorporated.

And no agent shall be allowed to transact business for such company whose capital is impaired to the extent of twenty per cent. thereof, while such deficiency shall continue.

§ 26. COMPLIANCE WITH THIS ACT NECESSARY.] Nor shall it be lawful for any agent or agents to act for any company or companies referred to in this act, directly or indirectly, in taking risks or transacting the business of fire or inland navigation insurance in this Territory, without procuring from the Territorial Auditor a certificate of authority, stating that such company has complied with all the requisitions of this act which apply to such companies.

(RENEWAL OF CERTIFICATE YEARLY.) The statement and evidences of investment required by his act shall be renewed from year to year in such manner and form as may be required by said Auditor; and the said Auditor on being satisfied that the capital, securities and investments remain secure as hereinbefore provided, shall furnish a renewal of the certificate as aforesaid.

§ 27. PENALTY.] Any violation of any of the provisions of this act shall subject the party violating the same to a penalty of five hundred dollars for each violation, and of the additional sum of one hundred dollars for each month during which any such agent shall neglect to file such affidavits and statements as herein required.

§ 28. ACT APPLIES TO ALL FOREIGN COMPANIES, ETC.] The provisions of this act shall apply to all foreign companies, partnership associations and individuals, whether incorporated or not. All insurance companies, associations or partnerships incorporated by or organized under the laws of any other State or Territory of the United States, or any foreign government, transacting the business of fire or marine insurance, or any other kind of insurance, in this Territory, shall make annual statements of their condition and affairs to the Auditor's office, in the same manner and in the same form as similar companies organized under the laws of this Territory.

§ 29. WHEN AUDITOR MAY REVOKE CERTIFICATE.] If the Auditor has or shall have at any time satisfactory evidence that any annual statement or other report required or authorized by this act, made or to be made by any officer or officers, agent or agents of any corporation, association or partnership, incorporated by or organized under the laws of any State or Territory of the United States or any foreign government, is false, it shall be the duty of said Auditor, to immediately revoke the certificate of authority granted on behalf of such corporation, association or partnership, and mail a copy of such revocation to each agent thereof in this Territory. And the agent or agents of such corporation, association or partnership, after such notice, shall discontinue the issuing of any new policy and the renewal of any policy previously issued; and such revocation shall not be set aside nor any new certificate of authority given until satisfactory evidence shall have been furnished to said Auditor that such corporation, association or partnership is in substance and in fact in the condition set forth in such false statement or report, and that all the requirements of said act have been fully complied with.

§ 30. EXAMINATION BY AUDITOR OR HIS APPOINTEE.] It shall be the duty of the Territorial Auditor, whenever he shall deem it expedient so to do, 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 insurance company incorporated in this Territory or doing business by its agents in this Territory; and 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 the person or persons so appointed, and otherwise to facilitate such examinations so far as it may be in their power to do, and to pay all reasonable expenses incurred therein. And for that purpose the said Auditor, or person or persons so appointed by him, shall have the power to examine, under oath, the officers and agents of any 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 said investigation in one or more papers in this Territory.

§ 31. WHEN DEFICIENCY APPEARS—PROCEEDINGS.] And whenever it shall appear to the said Auditor from such examination, that the assets of any company incorporated in this Territory are insufficient to justify the continuance in business of any such company, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency, within such period as he may designate in such requisitions, or he shall communicate the fact to the district attorney, or whose duty it shall become to apply to the district court of the county in which the principal office of said company shall be located, for an order requiring them to show cause why the business of such company should not be closed; and the court shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of said court that the assets and funds of said company are not sufficient as aforesaid, or that the interests of the public so require, the said court shall decree a dissolution of said company, and a distribution of its effects. The said district court shall have the power to refer the application of the district attorney to a master in chancery, to inquire into and report upon the facts stated therein. Any company receiving the aforesaid requisition from the said Auditor, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall refuse or neglect to pay the amount so called for, after notice personally given, or by advertisement, in such time and manner as the said Auditor shall approve, it shall be lawful for the said company to require the return of said original certificate of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company—the value of such shares, for which the new certificates shall be issued, to be ascertained under the direction of the said Auditor, and the company paying for the fractional parts of shares; and it shall be lawful for the directors

of such company to create new stock, and dispose of the same, and issue new certificates therefor, to an amount sufficient to make up the original capital of the company.

§ 32. LIABILITY OF STOCKHOLDERS FOR ADDITIONAL LOSS.] And it is hereby declared that in event of any additional losses accruing upon new risks taken after the expiration of the period limited by the said Auditor, in the aforesaid requisition for the filling up of the deficiency in the capital of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof.

§ 33. TRANSFER OF STOCK NOT TO RELIEVE.] Any transfer of the stock of any company organized under this act, made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer.

§ 34. WHEN COMPANY UNSOUND, BUSINESS STOP.] And whenever it shall appear to said Auditor from the report of the person or persons appointed by him, that the affairs of any company not incorporated by the laws of this Territory are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in a newspaper of general circulation, published in the city of Yankton, and mail a copy thereof to each agent of the company; and the agent or agents of such company, after such notice, shall be required to discontinue the issuing of any new policy, and the renewal of any previously issued.

§ 35. SUITS FOR PENALTIES.] Every penalty provided for by this act shall be sued for and recovered in the name of the people by the district attorney, under whose jurisdiction the company or the agent or agents so violating shall be situated; and one half of said penalty, when recovered, shall be paid into the treasury of said county, and the other half to the informer of such violations, and in case of the non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof; such penalties may also be sued for and recovered in the name of the people by the district attorney, and when sued for and collected by him shall be paid into the territorial treasury.

§ 36. DURATION OF COMPANY—LEGISLATIVE CONTROL, ETC.] All companies incorporated or extended under this act may provide in their charter for not more than thirty years duration, but the Legislature may at any time alter or amend this act, and provide for the closing up of the business and affairs of any company formed under it. Nothing herein contained shall be so construed to prevent subsequent extension of the charter of companies organized or extended under this act.

§ 37. RIGHTS OF OLD COMPANIES.] Companies other than those organized under the laws of this Territory which may have received certificates of authority for the year 1883 prior to the passage of this act, shall be permitted to continue to transact the business of insurance without further statement until the thirty-first day of December, 1883.

§ 38. STOCK IMPAIRED—REDUCTION OF STOCK.] Whenever it shall appear to the Territorial Auditor from an examination made by him in the manner prescribed by law, that the capital stock of any company organized pursuant to law, is impaired to an amount exceeding twenty per cent. of such capital, and he shall be of the opinion that the interests of the public will not be prejudiced by permitting such company to continue business with a reduced capital, it shall be lawful for such company with the permission of the said Auditor to reduce its capital stock, and the par value of the shares thereof, to such amount as the said Auditor may, under his hand and official seal, certify to be proper, and as shall, in his opinion, be justified by the assets and property of such company:

Provided, That no part of such assets and property shall be distributed to the stockholders:

And, provided further, That the capital stock of any such company shall not be reduced to an amount less than the sum now required by law for the organization of a new company under the general insurance laws for the transaction of business at the place where such company is located, and of the kind which such company is authorized to transact. No reduction of the capital of any such company shall be made except upon a resolution of its board of directors, approved by at least two thirds of the directors, and certified under its corporate seal, signed by the president and at least two-thirds of the directors, and proved or acknowledged in the manner required by law for the proof or acknowledgment of conveyances, which certificate shall be filed in the office of said Auditor before any action shall be had by him thereon. The Territorial Auditor, in case he shall permit any such company to reduce its capital in the manner provided in this act, shall execute the certificate required by this act in duplicate, and deliver one of such certificates to the officers of such company, who shall forthwith file the same with the clerk of the county in which such company is located, and the other such certificate shall be filed in the office of said Auditor. Such company upon filing the certificate with the county clerk as required by this act, shall, with such reduced capital, possess the same rights and be subject to the same liabilities that it possessed or was subject to at the time of the reduction of its capital. And the charter of such company shall be deemed to be amended in respect to the amount of capital, and the par

value of the shares, so as to conform to such reduction. It shall be lawful for the said company to require the return of the original certificate of stock held by each stockholder, and in lieu thereof to issue new certificates for such number of shares as each stockholder may be entitled to, in the proportion that the reduced capital may be found to bear to the original capital of the company. It shall be lawful for any such company, after its capital shall be so reduced as aforesaid, to increase its capital stock in the manner prescribed by this law.

§ 39. RECEIVERS, ETC., TO MAKE STATEMENTS.] It shall be the duty of all receivers of insurance companies, on or before the first day of March in each year, and at any other time when required by the Territorial Auditor, to make and file annual and other statements of their assets and liabilities, and of their incomes and expenditures, in the same manner and form, and under the same penalties, as the officers of such companies are now required by law to make annual and other statements to the Auditor's office.

§ 40. PUBLICATION OF ANNUAL STATEMENTS OF RECEIVERS, ETC.] And the said Auditor shall also cause its annual statements required to be filed by this act to be published in two daily newspapers of general circulation.

§ 41. FEES.] There shall be paid by every company, association, person or persons or agent to whom this act shall apply, the following fees:

For filing the declaration, on the certified copy of a charter, [or] last annual statement, and furnishing copies of statement for publication herein required, the sum of twenty dollars.

For filing thereafter the annual statement and furnishing copies for publication, ten dollars.

For each certificate of authority to agents or companies or associations not incorporated under the laws of this Territory, two dollars.

For each certificate of authority to agents or companies incorporated under the laws of this Territory, fifty cents.

For every copy of paper filed in this office, the sum of ten cents per folio.

And for affixing the seal of said office to such copy and certifying the same, fifty cents.

And in case two or more companies combine and effect insurance under a joint policy, each and every company shall pay the fees provided herein, the same as if each company wrote separate and distinct policies:

Provided, That the net amount of all fees over and above the cost of performing the clerical labor connected therewith, shall not

exceed, under this act, the sum of two thousand dollars, and that any amount above that sum shall be paid over to the Territorial Treasurer for the general fund of the Territory :

And, provided further, That the Auditor shall render account in his biennial report, of the fees received by him under the provisions of this act.

§ 42. TAXES.] Every fire, marine, fire and marine and other insurance company, incorporated under the laws of this Territory, except life insurance companies, shall annually on or before the first day of February in each year, pay a tax or excise of one per centum on all premiums received during the year ending on the preceding 31st day of December, for insurance, whether in cash or notes absolutely payable :

Provided, however, That in the assessment of such tax, premiums received in other States where they are subject to a like tax, shall not be included. Every fire, marine, fire and marine, and other insurance corporation, association or partnership, which is incorporated or associated by authority of any other State, Territory or country shall pay annually on or before the first day of February in each year, a tax or excise of two and one half per centum upon all premiums charged or received on contracts made in this Territory, during the year ending on the preceding 31st day of December. In determining the amount of tax due under the preceding sections of this act, there shall be deducted in each case from the full amount of premiums, the amount actually paid for losses during the said year. All taxes upon premiums shall be paid to the Territorial Auditor at the time of the filing of the annual reports required by this act, and by him paid to the Territorial Treasurer for the general fund of the Territory :

Provided, That all insurance companies incorporated by any other State or Territory or country shall be subject to no other taxation under the laws of this Territory, except such fees and taxes as are required by this act, and upon all real estate actually owned by them in this Territory. All companies not complying with the provisions of this section shall be subject to a penalty or fine in addition to taxes due, not exceeding the amount of the tax for which such company is liable and delinquent.

§ 43. WHEN UNLAWFUL TO TAKE INSURANCE.] It shall not be lawful for any fire, marine, fire and marine, and other insurance corporation, association or partnership, which is incorporated or associated by the authority of any other State, Territory or county to issue or renew any policy or take any insurance of any kind or nature in this Territory, unless the contract, policy or renewal is issued or countersigned by the agent or agents of the said corporations, associations or partnerships, duly authorized to transact the

business of insurance for the said corporations, associations or partnerships, under the laws of this Territory. Any insurance effected not in accordance with this section shall be null and void and of no effect.

§ 44. **LAWFUL FOR MUTUAL COMPANIES TO DO BUSINESS.]** It shall be lawful for such mutual insurance companies, organized under the laws of any other State, Territory or country, as transact the business of marine or inland insurance exclusively, to do business in this Territory, with the consent of the Territorial Auditor of this Territory, upon filing statements, making application and complying so far as is practicable with the provisions of this act.

§ 45. **AGENTS RESPONSIBLE—EMBEZZLEMENT BY.]** Agents appointed by any company doing business in this Territory to solicit for applications for insurance, to collect the premiums on the same, and to transact the other duties of agents in such cases, shall be held personally responsible to such company for any moneys received by them for such company; and in case any such agent shall embezzle or fraudulently convert to his own use, or shall take or secrete with intent to embezzle and convert to his own use, without consent of such company, any money belonging to such company, which shall have come into his possession, or shall be under his care by virtue of his agency, he shall be deemed, by so doing to have committed the crime of larceny, and on conviction shall be subject to the fines and penalties provided by the statute in such cases.

§ 46. **COMPANIES MUST COMPLY BEFORE DOING BUSINESS.]** That every insurance company or association incorporated by or organized under the laws of any other State, Territory or foreign country, must comply with the requirements of the general insurance laws of this Territory governing fire, marine and inland navigation insurance companies doing business in the Territory of Dakota, before it shall be lawful for such company or association to take risks or transact any kind of insurance business in this Territory, other than that of life insurance, and such companies or associations, and all persons acting as agents thereof, shall be subject to the same penalties prescribed therein for a violation of any of the provisions thereof;

Provided. That no plate glass, accident or steam-boiler insurance company shall be required to have a larger capital than one hundred thousand dollars actually paid up.

Nor shall any such company be authorized to transact business in this Territory without having previously deposited with the Territorial Treasurer of this Territory, or with the chief financial officer or commissioner of insurance of the State where such com-

pany is organized, securities, duly assigned to such officer in trust for the benefit of its policy holders, the market value of which shall at all times be equal to twenty-five thousand dollars. Said deposit shall consist of such like securities as fire insurance companies are, by the general insurance laws of this Territory, authorized to invest in.

§ 47. REPEALED.] All acts or parts of acts and laws not consistent with this act, regulating insurance companies and the business of insurance, are hereby repealed.

§ 48. WHEN TO TAKE EFFECT.] This act shall take effect from and after its passage ;

Provided, That companies other than those organized under the laws of this Territory, which may have received licenses for the year A. D. 1883, prior to the passage of this act, shall not be obliged to renew application during the said year. But such company shall be subject to examination at the discretion of the Territorial Auditor, as hereinbefore provided ;

Also, provided, That the examination of companies already organized under the laws of this Territory, shall, for the year 1883, be made in the month of July next, or as soon thereafter as possible.

Approved, March 9, 1883.

James River.

CHAPTER 70.

TO PRESERVE THE WATERS FOR DOMESTIC PURPOSES.

AN ACT to Preserve the Waters of the Dakota or James River and its Tributaries for Domestic and Drinking Purposes.

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

§ 1. WHAT SHALL BE UNLAWFUL.] That it shall be unlawful for any person or persons to place or cause to be placed any manure, carcasses of animals or other deleterious substances into the Dakota or James River or any of its tributaries, or upon the banks of the same in such proximity that the said substance may be washed into said water-course.

§ 2. PENALTY.] That any person offending against the provisions of section one of this act shall be guilty of a misdemeanor