

REVISED CODES  
OF THE  
TERRITORY OF DAKOTA.

POLITICAL CODE.

CHAPTER 1.

SEAT OF GOVERNMENT.

AN ACT to Establish a Political Code or the Territory of Dakota.

§ 1. SEAT OF GOVERNMENT LOCATED AT YANKTON.] *Be it enacted the legislative assembly of the territory of Dakota.* The seat of government is hereby located and established in the city of Yankton, in the county of Yankton.

## CHAPTER 2.

### LEGISLATURE.

§ 1. MEMBERS ELECTED BIENNIALY FOR TERM OF TWO YEARS.] The members of both branches of the legislative assembly shall be elected at the general election in 1878, and biennially thereafter, and shall hold their respective offices for the term of two years.

§ 2. SESSIONS WHEN AND WHERE HELD.] The regular session of the legislative assembly shall commence on the second Tuesday of January, next ensuing the election of its members, and shall be held at the seat of government, unless the governor shall convene them at some other place in times of pestilence or public danger.

§ 3. PRIVILEGE OF MEMBERS.] No member or officer of the council or house of representatives, while in actual attendance upon the duties of his office, shall be liable to arrest upon civil process.

§ 4. PUNISHMENT BY EACH HOUSE FOR OFFENSES.] Each house may punish, as a contempt, by imprisonment, a breach of its privileges or the privileges of its members; but only for one or more of the following offenses, to-wit: 1. Knowingly arresting a member or officer of the house, or procuring such member or officer to be arrested, in violation of his privileges from arrest. 2. That of disorderly conduct in the immediate view of the house, and directly tending to interrupt its proceedings. 3. That of refusing to attend to be examined as a witness, either before the house, or a committee, or before any person authorized to take testimony in legislative proceedings. 4. That of giving or offering a bribe to a member, or of attempting, by menace, or other corrupt means or device, directly or indirectly, to control or influence a member in giving his vote, or to prevent his giving the same; but the term of imprisonment which such house may impose for any contempt specified in this section, shall not extend beyond the same session of the legislature.

§ 5. CONTEMPT—MISDEMEANOR.] Every person who shall be guilty of any contempt specified in the preceding section, shall, also, be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment not exceeding six months, or by fine not exceeding five hundred dollars, or both such fine and imprisonment, at the discretion of the court.

§ 6. ADMINISTERING OATH TO MEMBERS AND OFFICERS.] The speaker

of the house of representatives and the president of the council, the governor, or any of the justices of the supreme court are authorized to administer the oath of office to the members and officers of the respective houses.

§ 7. OATH OF MEMBERS.] The members shall be required to take and subscribe the following oath :

You do solemnly swear that you will support the constitution of the United States and the organic act of the Territory of Dakota, and that as a member of this house of representatives, (or this council, as the case may be;) you will not propose or assent to any bill, vote or resolution which shall appear to you injurious to the people, nor do or consent to any act or thing whatever that shall have a tendency to lessen or abridge their rights and privileges as declared by the constitution of the United States, and the organic act of this Territory, but will, in all things, conduct yourself as a faithful, honest representative and guardian of the people, according to the best of your judgment and abilities. So help you God.

§ 8. COMMITTEE MAY ADMINISTER OATH.] Any member of the council or house of representatives, while acting as a committee of the house of which he is a member, shall have authority to administer oaths to such persons as shall be examined before the committee of which he is a member.

§ 9. CONTESTED SEATS.] In case the right of any person to a seat in either house of the legislative assembly shall be contested, the right of such person to a seat as aforesaid, shall be determined by the house in which he claims such seat as a member ; and each house shall in all cases be the judge of the qualifications of its members.

§ 10. OFFICERS OF RESPECTIVE HOUSES.] The officers of the respective houses shall consist of a president of the council, who must be a member of that body ; a speaker of the house, who must be a member of that body ; and for each house one chief clerk, one assistant clerk, one engrossing clerk, one enrolling clerk, one sergeant-at-arms, one doorkeeper, one messenger, and one watchman.

§ 11. OFFICERS ELECTED VIVA VOCE—OATH.] The said officers shall be elected *viva voce*, by the members of each house respectively, at such time, after the meeting of said house, as the members thereof shall see proper ; and shall be required to take and subscribe the same oath as is provided for other civil officers ; but neither house shall transact any business other than the election or appointment of officers, until said officers are elected or appointed *pro tem.*, on motion.

§ 12. CHIEF CLERKS TO KEEP JOURNALS, &C.] It shall be the duty of the chief clerk of the council and chief clerk of the house of representatives, to keep correct journals of the proceedings of their respective houses ; to have the custody of all records, accounts, and other papers committed to them, and at the close of each session of the legislative assembly, shall deposit for safe keeping in the office of the secretary of the territory, all books, bills, documents, resolutions and papers in the possession of the legislature, correctly labelled, folded, and classified, and generally to perform such duties as shall be assigned them by their respective houses : *Provided*, The journals of the two houses need not be deposited as above provided until the expiration of forty days after the adjournment of the legislative assembly.

§ 13. CHIEF CLERKS TO PREPARE AND INDEX JOURNALS, &C.] It shall be the duty of the chief clerk of the council and the chief clerk of the house, at the close of each session, to prepare for the press and superintend the publication of the journals of the proceedings of their respective houses, and to affix an index thereto ; and to transcribe into a book kept for that purpose, the documents accompanying the message of the governor, or by him sent to either house, other than those entered on the journal, or the documents reported to either branch of the legislative assembly by any public officer of the territory, in pursuance of law, for which service they shall be allowed such compensation as the legislature shall from time to time determine ; but in no event to be less than their regular per diem, for the time actually employed in performing said labor.

§ 14. CHIEF CLERKS TO MAKE ROLL OF MEMBERS.] It shall be the duty of the said chief clerks, at the opening of every session of the legislative assembly, to make a correct roll of the members of their houses, respectively, to whom certificates of election have been issued by the proper officers, which certificates shall be filed by said secretary and chief clerk.

§ 15. SESSIONS CALLED TO ORDER BY CHIEF CLERKS OF LAST HOUSES.] In all cases, the said chief clerks, serving at the close of a session, shall remain in office until the organization of the next regular session of the legislature, and at twelve o'clock, meridian, on the day appointed by law for the meeting of the legislative assembly, the said chief clerks, or in the absence of either, then some member or other person appointed by the members present, shall call the members of their respective houses so enrolled to order, when the members may proceed to the election of the necessary officers. The term of office of all officers of the council and house of representatives, shall expire with the close of the session at which they were elected, except the chief clerk of the council and the chief clerk of the house, for the purposes herein designated.

§ 16. COMPENSATION OF OFFICERS—HOW CERTIFIED.] The compensation prescribed by law for the officers of the council shall be certified by the president thereof, and attested by the chief clerk ; and the compensation that may be due to the officers of the house of representatives, shall be certified by the speaker thereof, and attested by the chief clerk, which said certificates, when made out as aforesaid, shall be sufficient evidence to the secretary of the territory of each person's claim.

§ 17. EITHER HOUSE MAY REMOVE OFFICERS.] It shall be competent at any time during a session of the legislative assembly, for either house, by a vote of a majority, to remove from office any of the officers provided for in this chapter ; but in case of the removal of any officer by either house, his place shall be supplied by an election, *viva voce* ; and in all elections under the provisions of this chapter for officers of either house of the legislative assembly, it shall require a majority of all the votes cast to determine a choice.

## CHAPTER 3.

### THE STATUTES.

§ 1. SECRETARY TO PROCURE PRINTING OF LAWS.] The secretary of the territory shall procure the printing of one thousand copies of the general laws, and five hundred of the memorials, private laws and resolutions, passed at each session of the legislative assembly, and have the same separately bound, as follows: Of the general laws, five hundred copies in law sheep; two hundred and fifty copies in half binding, with leather backs and corners, and the remaining two hundred and fifty copies, and the memorials, private laws and resolutions, in durable pamphlet form; and they shall all be prefaced by a table of contents, and shall contain a full and correct index.

§ 2. SECRETARY TO ARRANGE AND CORRECT LAWS.] In arranging the laws, memorials and resolutions for publication, the secretary aforesaid is hereby authorized to make such corrections in the orthography, grammatical construction and punctuation of the same, as in his judgment shall be deemed essential: *Provided*, That when any words or clauses shall be inserted, the same shall be inclosed in brackets.

§ 3. DISTRIBUTION OF LAWS.] The secretary aforesaid is hereby authorized to distribute the laws, after they shall have been printed and bound, in the manner hereinafter specified.

§ 4. TO WHOM AND HOW DISTRIBUTED.] The following named officers of this territory and of the counties therein, and none others, shall be entitled to receive, without cost to the person holding such office, one copy each of the bound volumes of laws enacted by the legislative assembly of this territory, to-wit: The chief justice of the supreme court of the district of Dakota; each associate justice of said supreme court; each clerk of the district court; the United States attorney for the district of Dakota; the United States marshal for the district of Dakota; each United States commissioner appointed by any judge of this territory; the governor of the territory; the secretary of the territory; the auditor; the treasurer; the superintendent of public instruction; the superintendent of immigration; the librarian of the historical society of Dakota territory; each district attorney; each judge of the probate court; each sheriff; each register of deeds; each county clerk; each justice of the peace; each coroner; each county superintendent of public schools; each assessor; each chairman of the board of county commissioners; and one copy to each library

association organized for the benefit of the public in any county or town in this territory; and one to each member of the legislative assembly of the session of which he was a member.

§ 5. COPIES TO CERTAIN OFFICERS OF UNITED STATES.] It is hereby made the duty of the secretary of this territory, whenever any volumes of the laws of this territory shall come into his hands, to transmit to each federal and territorial officer and United States commissioner, clerks of the United States district and supreme court, and each district attorney, one volume of such laws, prepaying the postage thereon if sent by mail, and the said secretary shall state an account of his disbursements for postage or carriage of such volumes so sent by him, to the auditor of the territory, who is hereby authorized to audit the same if in his judgment it be just and correct, and when so audited, the treasurer of the territory is authorized to pay the same out of any money in his hands not otherwise appropriated.

§ 6. COUNTY OFFICERS—HOW SUPPLIED.] The county clerks of the several counties of this territory, shall, on the first Monday of February next succeeding the time when any session of the legislative assembly shall be held, make a requisition upon the secretary of the territory for as many copies of the laws of said session as may be required to supply one copy to each county, district or township office entitled to the same, and shall forward said requisition to said secretary, who shall thereupon, or as soon thereafter as he shall receive the said volumes of laws, forward the number of copies called for by said requisition, to said clerk, either by express, or in any other secure manner, the charges of said carriage to be borne by the county receiving such laws. The county clerk, upon receiving the laws, shall distribute them to the several officers entitled by law to the same, taking, in every instance, the official receipt of the officer to whom they are delivered, said receipt to describe the date of the volume so delivered, and to be thereafter filed in the office of said county clerk.

§ 7. OFFICERS TO DELIVER LAWS TO SUCCESSORS.] That whenever any person shall be elected to fill any of the county, town or district offices mentioned in section one of this act, it shall be such person's duty, before taking possession of the said office, to procure from the county clerk of their county a copy of the receipt filed with said clerk by the outgoing officer for any volumes of the laws of this territory, which copy of said receipt the person so elected shall exhibit to his predecessor in office at the time when he shall assume the duties of his office, and shall require from his predecessor all the volumes of laws which he may have received, as shown by the receipt on file with the county clerk; and it shall be the duty of the said officer after having received from his predecessor the volumes of laws as heretofore specified, to make out duplicate receipts of the same, one of said receipts to be given to his predecessor in office, and the other to be forthwith transmitted to the county clerk of the county, who is hereby required to file the same in his office.

§ 8. OFFENSE FOR FAILURE TO DELIVER STATUTES TO SUCCESSOR.] In case any person holding an office in this territory, or in any county, township

or district thereof, shall, upon relinquishing said office to his successor, fail or refuse to deliver over to his successor in office all the volumes of laws that have come into his possession by virtue of holding such office, such person so failing or refusing shall be liable, upon conviction, to a fine of fifty dollars, or to imprisonment in the county jail not exceeding twenty days, and it is hereby made the duty of the person succeeding to the office of such delinquent to file complaint against him before a justice of the peace: *Provided*, That in case the person so failing or refusing to deliver said volumes of laws can show to the satisfaction of the justice that said volumes have been destroyed or stolen in a manner for which the said delinquent person should not be held responsible, then and in that case no penalty shall be imposed.

§ 9. LOST VOLUMES OF STATUTES—HOW SUPPLIED.] Whenever any county, township, or precinct officer entitled to a copy of the laws of this territory, shall, through the neglect or refusal of his predecessor in office to turn such laws over to him, or through loss occasioned by fire, theft or other cause for which said person cannot be held responsible, be without such laws, such person is hereby authorized to make a written requisition upon the county clerk of his county for such volumes of laws as may be required, and the said clerk is authorized to proceed in the manner hereinbefore provided for the general distribution to supply the said requisition: *Provided*, That the secretary shall be authorized to charge the county from which such requisition is made, the cost, with ten per cent. added, for each and every additional volume so furnished, which said amount shall be allowed by the board of commissioners of said county, and paid over to the secretary, in cash, who shall in turn pay the same to the territorial treasurer, taking his official receipt therefor.

§ 10. SECRETARY TO SELL STATUTES.] The secretary of the territory shall sell to any party applying therefor the volumes of laws of this territory, for the cost and ten per cent. added per volume, and pay over to the territorial treasurer all sums so received, taking the official receipt of said treasurer therefor.

§ 11. COPIES OF LAWS FOR TERRITORIAL LIBRARY.] Ten volumes of the laws of Dakota passed by each legislative assembly shall be placed in the territorial library by the secretary of the territory, and shall be kept therein for the use of any person visiting said library, but shall not be loaned or otherwise disposed of.

## CHAPTER 4. TERRITORIAL SEAL.

§ 1. GREAT SEAL OF THE TERRITORY.] The following described seal is hereby declared to be and is hereby constituted the great seal of Dakota territory, to-wit : A tree in the open field, the trunk of which is surrounded by a bundle of rods, bound with three bands ; on the right, plow, anvil, sledge, rake and fork ; on the left, bow crossed with three arrows, Indian on horseback pursuing a buffalo towards the setting sun ; foliage of the tree arched by half circle of thirteen stars, surrounded by the motto : " Liberty and Union, one and inseparable, now and forever ;" the words " Great Seal " at the top, and at the bottom, " Dakota Territory ; on the left, " March 2 ; on the right, " 1861." Seal two inches and a half in diameter.

## CHAPTER 5.

### QUALIFICATION FOR OFFICE.

§ 1. CIVIL OFFICERS TO QUALIFY.] Except as otherwise specially provided, all civil officers shall qualify substantially in manner and form as herein set forth.

§ 2. CERTAIN OFFICERS TO GIVE BOND.] All civil officers elected by the people, or appointed by the governor or legislative assembly, or by any other authority provided by law, except the superintendent of public instruction, the territorial superintendent and all members of the bureau of immigration, stenographers, county commissioners, county surveyors, county superintendent of public schools, county clerk, the officers of the council and house of the legislative assembly, but including township treasurers, clerks, justices of the peace and constables, shall, before entering upon duty, give bond conditioned that they will faithfully and impartially discharge the duties of their office, (naming it fully,) and render a true account of all moneys, credits, accounts and property of any kind that shall come into their hands as such officer, and pay over and deliver the same according to law.

§ 3. OATH OF OFFICE ON BACK OF BOND.] Every civil officer who is required to give bond shall take and subscribe on the back of his bond or a paper attached thereto, to be certified by the officer administering it, an oath that he will support the constitution of the United States and the act organizing this territory, and that he will faithfully and impartially, to the best of his knowledge and ability, perform all the duties of his office, (naming it fully,) as provided by the condition of his bond written within.

§ 4. OATH ON BACK OF COMMISSION.] All other civil officers are required to take and subscribe on the back of their appointment, commission or certificate of election, an oath to support the constitution of the United States and the act organizing this territory, and to faithfully and impartially perform all the duties of their office, (naming it fully,) to the best of their knowledge and ability.

§ 5. BONDS—HOW APPROVED.] The bonds of all territorial and district officers shall be given to the territory, shall be approved by the governor or one of the justices of the supreme court of the territory, and shall, together with the oaths of all other such officers, be filed in the office of the secretary of the territory. The bonds of all county, township and precinct officers shall be given to the county; those of all county and precinct offi-

cers under the county shall be approved by the board of county commissioners, and shall, together with the oaths of office of all other such officers, be filed with the county clerk, except the bond and oath of the register of deeds, which shall be filed with the clerk of the district court for the county or judicial sub-division. The bonds of township officers shall be approved by the chairman of the township board of supervisors of the township, and shall be filed in the office of the clerk of the district court for the county or judicial sub-division ; and the oaths of all other township officers shall be filed in the office of the township clerk.

§ 6. PENAL SUM OF BONDS.] The bond of the territorial auditor shall be in the penal sum of one thousand dollars ; of the territorial treasurer in the penal sum of five thousand dollars ; of clerk of the district court in the penal sum of one thousand dollars ; of the district attorney in the penal sum of one thousand dollars ; of notaries public in the penal sum of five hundred dollars. The bonds of the county register of deeds, judges of probate court, sheriffs, coroners, treasurers, and all assessors, justices of the peace, and constables, whether of the county or any township therein, and all township treasurers, shall each be in a penal sum to be fixed by the board of county commissioners ; but that of the county treasurer shall not be in a less penal sum than four thousand dollars, except when the total amount of taxes to be by him collected in any year is less than two thousand dollars, then in double the amount of taxes to be collected : *Provided*, That in no case shall the bond of said county treasurer be less than one thousand dollars. Those of justices of the peace shall not be in a less penal sum than three hundred dollars each ; and those of constables shall not be in a less penal sum than two hundred dollars each ; and the penalty of the bond shall be uniform within the county for all officers of each class where there is more than one of a class.

§ 7. NUMBER OF SURETIES TO BOND.] Every official bond shall be given with at least two sureties, and the bond of the territorial treasurer shall have at least four sureties, and that of the county treasurer at least three sureties.

§ 8. APPROVAL OF BOND.] The approval shall in all cases be indorsed upon the bond and signed by the officer approving, or by the chairman of the board of county commissioners ; but in case the board of county commissioners or the chairman of the township board of supervisors should decide a bond presented to them to be insufficient, a reasonable time, not to exceed five days, shall be allowed the officer to supply a sufficient bond, and either board may take three days to consider the approval of any bond. If either board refuse or neglect to approve the bond of any county officer or township officer elect, he may present the same to the judge of the district court and serve notice thereof upon the board ; and due proof of such service being made to the judge at the time therein named, he shall, unless good cause for delay appear, proceed to hear and to determine the sufficiency of the bond, and may approve the same, and such approval shall be in all respects valid.

§ 9. WHEN REGULAR TERM OF OFFICE BEGINS.] Except when otherwise

specially provided, the regular term of office for all county, township and precinct officers, when elected for a full term, shall commence on the first Monday of January next succeeding their election ; but if the office to which he was elected be vacant at the time of election, even if he was not elected to fill a vacancy, he shall forthwith qualify and enter upon the duties of his office.

§ 10. WHEN OFFICERS SHALL QUALIFY.] Except where otherwise specially provided, all territorial, district, county, township and precinct officers shall qualify and enter upon the duties of their office on the first Monday of January succeeding their election, or within ten days thereafter.

§ 11. OFFICE VACANT—WHEN.] If any person elected to any office mentioned in the preceding section shall fail to qualify and enter upon the duties of such office within the time fixed by law, such office shall be deemed vacant, and shall be filled by appointment by the authority provided by law to fill such vacancy : *Provided, however,* That if there is a contest for such office, or if the person elected to such office is prevented or obstructed in any manner from entering upon the duties of such office, the time prescribed in which he shall qualify and enter upon the duties of his office shall not govern, and he shall be allowed twenty days after the day of such decision, or the termination of such preventing or obstructing cause, in which to qualify.

§ 12. BONDS CONSTRUED TO COVER DUTIES.] The bonds and oaths of all civil officers shall be construed to cover duties required by law subsequent to giving them ; and no official bond shall be void for want of compliance with the statute, but it shall be valid in law for the matter contained therein.

§ 13. RE-ELECTED INCUMBENT TO ACCOUNT BEFORE QUALIFYING.) When the incumbent of any office is re-elected, he shall qualify as above required ; but his bond shall not be approved until he has produced and fully accounted for all public funds and property in his control under color of his office during the expiring term, to the person or authority to whom he should account, and the fact and date of such satisfactory exhibit shall be indorsed upon the new bond before its approval.

§ 14. ALL OFFICERS MUST DELIVER PUBLIC PROPERTY TO SUCCESSOR.) Every officer elected or appointed under the laws of the territory, on going out of office at the expiration of his term thereof, shall deliver to his successor in office all public moneys, books, records, accounts, papers and documents in his possession belonging or appertaining to such office.

## CHAPTER 6.

## DEPUTIES.

§ 1. CERTAIN OFFICERS MAY APPOINT A DEPUTY.] The territorial auditor, treasurer and superintendent of public instruction, the county treasurer, sheriff, register of deeds, surveyor, clerk of the district court and assessor may each appoint a deputy, for whose acts as such he shall be responsible; and each officer required to give bond may require a bond from his deputy in a penal sum not greater than half the penal sum of his own bond, and such bond may be retained by the officer for his own protection; and the appointment must be in writing, and shall be revocable in writing at the pleasure of the principal, and all such appointments and revocations shall be filed as, and where, required for the bond and oath of the principal.

§ 2. WHO MAY APPOINT ADDITIONAL DEPUTIES.] The county assessor may appoint a deputy in each government township, or any number of deputies, and the sheriff may appoint such number of deputies as he may deem necessary; and the district attorney may appoint a deputy in each organized county in which a district court is, or may be, directed to be held.

§ 3. OATH OF DEPUTY.] Each deputy shall take and subscribe the same oath as his principal (naming his deputyship), which shall be indorsed upon and filed with his certificate of appointment.

§ 4. CERTAIN DEPUTIES FORBIDDEN.] No territorial officer can appoint as his deputy any other territorial or any district officer, nor can a territorial treasurer appoint as his deputy any county treasurer, judge of the probate court, register of deeds, sheriff, or county commissioner; nor can either the clerk of the district court, the register of deeds, or sheriff, appoint as his deputy either of the others or their deputies.

## CHAPTER 7.

### TERRITORIAL AUDITOR.

§ 1. GOVERNOR TO APPOINT AUDITOR—OFFICE AT CAPITAL.] There shall be nominated by the governor, and by and with the consent of the council, shall be appointed a territorial auditor who shall hold his office for the term of two years, and until his successor is appointed and qualified. He shall keep his office at the capital of the territory.

§ 2. ALL ACCOUNTS TO BE AUDITED.] All accounts and claims against the territory, which shall be by law directed to be paid out of the treasury thereof, shall be presented to the auditor, who shall examine and adjust the same, and, for the sums which shall be found due from the territory shall issue warrants, payable at the territorial treasury, which shall be numbered consecutively, and each shall specify the date of its issue and the name of the person to whom payable; and the number, date of issue and name of the person to whom payable of each warrant, and corresponding thereto shall be entered upon a stub for each warrant separately, and these stubs shall be carefully preserved by the auditor in his office.

§ 3. FRACTIONAL WARRANTS AUTHORIZED.] When the amount due from the territory to any one person is ascertained and adjusted, the auditor, if requested, shall divide the sum into amounts of from one to twenty dollars, to suit the convenience of the person entitled thereto, and shall issue warrants for the several amounts separately into which the sum shall be so divided and equal to the whole amount thereof; and any warrant already issued that may be returned by the holder thereof to the auditor, he may cancel and issue in lieu thereof small warrants, as herein provided, equal in the aggregate to the face value of the warrants cancelled.

§ 4. REDEMPTION OF WARRANTS.] For the redemption of all warrants issued in conformity with the provisions of this chapter, the credit of the territory is hereby pledged.

§ 5. WARRANTS TO BE NUMBERED.] The auditor shall enter, in progressive order, in a book or books to be provided by him for that purpose, the number of each warrant by him issued, the amount thereof, the date of its issue and the name of the person to whom issued, and the fund on which said warrant is drawn.

§ 6. METHOD OF AUDITOR'S ACCOUNTS.] The auditor shall make and keep in his office, in suitable books to be procured at the expense of

the territory, fair and accurate accounts showing the debits and credits of each separate fund or appropriation by giving such funds credit for the full amount appropriated by law, and by charging to such funds severally the amounts drawn against them from time to time, and he shall also keep records of all such public accounts and other documents as have been or may be by law made returnable to his office, and shall keep a file in progressive order of all receipts and warrants returned as redeemed from the territorial treasurer, and other vouchers relative to the business of his office.

§ 7. BIENNIAL REPORT OF AUDITOR.] The auditor shall submit a biennial report to the governor of the territory on or before the 15th day of December preceding each regular session of the legislative assembly, which report shall show for the preceding fiscal term ending on the 30th day of November:

1. A statement of date, number and amount of each warrant, the person in whose favor, and on what fund, each warrant was drawn.

2. The total amount of warrants redeemed and returned to him by the territorial treasurer.

3. A statement of the accounts of the several funds and appropriations, which shall show the sums appropriated for each fund, the amount of warrants on each fund, and the unexpended balances of the same.

4. Such remarks on the finances of the territory as he shall deem proper, which report shall be transmitted by the governor to the legislative assembly.

§ 8. AUDITOR TO TRANSMIT TO TREASURER STATEMENT OF ASSESSMENTS.] The auditor shall transmit to the territorial treasurer a statement of the assessments of each county of the territory as soon as practicable after the abstracts of such assessments shall be received from the county clerks of the several counties.

§ 9. LEGISLATIVE INSPECTION OF BOOKS.] Whenever required he shall submit his books, accounts and vouchers to the inspection of the legislative assembly, or any committee thereof, appointed for that purpose.

§ 10. LIST OF LANDS BECOMING TAXABLE.] He shall transmit to the register of deeds of each county, on or before the first day of March in each year, a list of lands within such county which shall have become subject to taxation within the preceding year, agreeable to the information by him received from the land office or offices in the territory.

§ 11. TRANSMIT FORMS AND INSTRUCTIONS TO COUNTY CLERKS.] He shall from time to time prepare and transmit to the county clerk of each county such general forms and instructions, in conformity with the laws in force, as, in his opinion, may be necessary to secure uniformity in assessing, charging and collecting, and accounting for the public revenue; and assessors and treasurers shall observe such forms and instructions.

§ 12. MAY REMIT TAX PENALTIES.] The auditor is hereby authorized to remit any penalty for the non-payment of taxes when satisfied that the same is improperly charged, or that such penalty occurred in consequence of the negligence or error of any officer required to do any duty relative

to the levy and collection of such taxes; and may from time to time correct all errors which he shall discover in the duplicate of taxes assessed in any county.

§ 13. STATEMENT OF RAILROAD ASSESSMENTS.] The auditor shall, on or before the first Monday in September in each year, transmit to the territorial treasurer a statement of the assessments made by him on the returns of the property of any railroad or other corporation required by law to make such returns, and on which the taxes cannot be properly levied and collected by any organized county, or on which it becomes the duty of the territorial treasurer to levy and collect the taxes.

§ 14. CERTAIN EXPENSES PAID OUT OF CONTINGENT FUND.] The expense of procuring books directed by this act to be procured, and the copies of entries, surveys, and other documents from the land offices, and all other contingent expenses of his office, shall be paid by the auditor out of the contingent fund appropriated for the use of said office.

§ 15. PROCEEDINGS ON DEFAULT OF OFFICERS TO PAY OVER REVENUE.] If any officer concerned in the collection of the territorial revenue shall fail to collect, to make proper return, to make settlement, or to pay over all moneys by him received and belonging to the territory at the time and in the manner required by law, the auditor of the territory shall, after the expiration of fifteen days next after the expiration of the time within which such are by law required to be performed, transmit to the county clerk of the proper county a statement of the sum claimed by the territory from such delinquent officer, with directions for such county clerk to proceed against such delinquent officer and his securities in the manner prescribed by law: *Provided*, That when the auditor of the territory shall be satisfied that such default results from some inevitable accident, and not from the negligence of such officer, he may, at his discretion, postpone the instructions for bringing suit for any time not exceeding sixty days.

§ 16. MAY ADMINISTER CERTAIN OATHS.] The auditor is authorized to administer an oath to accountants and witnesses, in support of the justice of such accounts as may be exhibited to him for liquidation, and to certify the same accordingly.

## CHAPTER 8.

### TERRITORIAL TREASURER.

§ 1. TERRITORIAL TREASURER APPOINTED BY GOVERNOR.] There shall be nominated by the governor, and by and with the consent of the council, shall be appointed a territorial treasurer who shall hold his office for the term of two years and until his successor is appointed and qualified.

§ 2. CHARGE AND PAYMENT OF PUBLIC FUNDS.] He shall have charge of and safely keep all public moneys which shall be paid into the territorial treasury and pay out the same as directed by law, and perform all such other duties as now are, or may hereafter be, required of him by law.

§ 3. ACCOUNTS OF RECEIPTS AND PAYMENTS.] He shall keep an accurate account of the receipts and disbursements of the treasury, in books provided for that purpose at the expense of the territory, in which he shall specify the names of persons from whom received, to whom paid, on what account the same is received or paid out, and the time of such receipt or payment.

§ 4. ACCOUNT WITH EACH COUNTY.] He shall also keep an account with each organized county of the territory in which each county shall be charged with the amount of the tax levied, according to the statements of assessment and levy transmitted to him by the territorial auditor, and credited by the amounts received from the county treasurer of such counties.

§ 5. WARRANTS RECEIVABLE FOR PUBLIC DUES.] He shall receive in payment for public dues the warrants drawn by the auditor of the territory, in conformity with law, or redeem the same, if there be money in the treasury appropriated for that purpose, and on redeeming such warrant, or receiving the same in payment, he shall cause the person presenting such warrant to endorse the same; and the treasurer shall write on the face of the same "redeemed," and shall enter in his book, in separate columns, the number of such warrant, its date, amount, and the name of the person to whom payable, the date of payment, and the amount of interest, if any, paid thereon.

§ 6. INDORSEMENTS OF WARRANTS NOT PAID.] When any warrant shall be presented to the treasurer for redemption, and there shall be no funds in the treasury appropriated for that purpose, the treasurer of the territory shall indorse thereon the date of its presentation, with his signature thereto, and whenever there shall be funds in the treasury for the redemption

of warrants so presented and indorsed, the treasurer shall give notice of the fact in some newspaper published at the seat of government, and at the expiration of thirty days after the date of such notice, the interest on such warrant shall cease.

§ 7. REDEEMED WARRANTS RETURNED TO AUDITOR.] He shall, on the last day of March, June, September and November, deposit in the office of the auditor of the territory, all warrants by him redeemed or received in payment at the treasury, and take the auditor's receipt therefor.

§ 8. BIENNIAL REPORT TO GOVERNOR.] He shall submit to the governor, on or before the 15th day of December preceding each regular session of the legislative assembly, a report containing a full and true exhibit of the state of the public accounts and funds, the amount by him received, the amount paid out during the preceding fiscal term ending on the 30th day of November, and the balance remaining in the treasury, together with an exhibit of the several organized counties as provided in section 4 of this chapter, which report shall by the governor be transmitted to the legislative assembly.

§ 9. LEGISLATIVE INSPECTION OF ACCOUNTS.] He shall, as often as required, submit his books, accounts, vouchers, and the funds in the treasury, to the inspection of either branch of the legislative assembly, or any committee thereof appointed for that purpose.

§ 10. MUST NOT PURCHASE WARRANTS OR ACCOUNTS.] He shall, in no case, purchase or receive any warrant redeemable at the treasury, or any audited account, at a less value than is expressed therein; nor shall he receive any fee or reward, aside from his annual salary for transacting any business connected with the duties of his office.

§ 11. TREASURER TO ASSESS AND COLLECT CERTAIN RAILROAD TAXES.] He shall assess upon and collect the territorial tax from all railroads where the same pass through any unorganized county, or where, for any cause, the said tax shall not have been assessed and collected on any railroad: and such tax may be assessed and collected at any time from the first day of January to the 31st day of December, and shall receive for his services five per centum of such taxes so assessed and collected, and shall transmit to the county treasurer of any county, in which such tax shall have been collected, a statement of the amount of such tax, which shall be subject to the order of the said county treasurer.

§ 12. RESPONSIBILITY FOR DELINQUENCIES.] If, in any instance, the treasurer shall neglect to call to account any delinquents, whereby the public revenue may suffer loss, he shall be held and deemed accountable for the sums due by such delinquents, to all intents and purposes, the same as if the funds had actually been paid into his office.

## CHAPTER 9.

### TERRITORIAL LIBRARY.

§ 1. SECRETARY'S CUSTODY OF LIBRARY.] The territorial library, including statutes, reports, documents and miscellaneous books of every nature and description belonging to said library is hereby placed in the care and custody of the secretary of the territory, whose duty it shall be to provide a room for said library and keep the same open at all reasonable hours for the benefit of the public; to label and arrange the books in a convenient manner; to collect in all books now out, and to let no book go out without first taking the receipt of the person to whom such book is delivered.

§ 2. APPROPRIATION FOR SAME.] There is hereby appropriated the sum of two hundred and fifty dollars annually out of the territorial treasury to be paid out of any money not otherwise appropriated to the secretary of the territory to be disbursed by him for the care and custody of said library and for rent of room.

§ 3. AUDITING OF ACCOUNTS.] It shall be the duty of the territorial auditor to audit all accounts presented to him by the secretary of the territory, when properly verified, and draw his warrants on the territorial treasurer for the same, for all money paid out by the secretary as express charges or freight on books donated and sent to the territorial library from abroad.

CHAPTER 10.  
TERMS OF SUPREME COURT.

§ 1. TWO TERMS ANNUALLY AT YANKTON.] There shall be held, at Yankton, two terms annually of the supreme court, commencing the fourth Tuesday of June and the second Tuesday of December.

## CHAPTER 11.

### ASSIGNMENT OF JUDGES OF SUPREME COURT.

§ 1. **ASSIGNMENT OF JUDGES.]** The justices of the supreme court are assigned as follows:

1. The Honorable G. G. Bennett, associate justice, and his successors in office, to the first judicial district.

2. The Honorable P. C. Shannon, chief justice, and his successors in office, to the second judicial district.

3. The Honorable A. H. Barnes, associate justice, and his successors in office, to the third judicial district.

§ 2. **JUSTICES HOLD COURT IN ANY DISTRICT.]** The justices of the supreme court may also, at their pleasure, hold terms of court in any of the several judicial districts, other than those to which they are herein assigned.

§ 3. **DUTY OF JUSTICES TO HOLD COURT IN OTHER DISTRICTS.]** It is hereby made the duty of the several judges, when not otherwise officially engaged, to hold terms of court in districts other than those to which they are assigned, and to hear and determine all matters at chambers from such other districts, when the judge of such other district shall be, from any cause whatever, unable to act, or in case of temporary vacancy.

## CHAPTER 12.

### BOUNDARIES OF JUDICIAL DISTRICTS.

§ 1. BOUNDARIES JUDICIAL DISTRICTS—CONTINGENT CHANGE.] The territory is divided into three judicial districts, as follows:

1. The counties of Clay, Union, Lincoln, Minnehaha, McCook, Moody, Lake, Brookings, Wood, Duel, Hamlin, Clark, Grant, Greeley and Stone, and the Sisseton and Wahpeton Indian reservations constitute the first district.

2. All that portion 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 its intersection with the 46th parallel of north latitude; thence west along said parallel to the right bank of the Missouri river at low water mark; thence down along said 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 Ree river to its 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 the western boundary of the territory; thence north along the western boundary of the 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, constitutes the third district.

3. All that portion of the territory not embraced within the bounds of the first and third districts as herein defined, constitutes the second district; *Provided, however,* That if the congress of the United States shall ratify the agreement with the Sioux Indians ceding the Black Hills, then and immediately thereafter the judicial districts of this territory shall be as follows, and the courts of the said districts shall be held as hereinafter provided:

1. All that portion of the territory of Dakota west of the right bank of the Missouri river at low water mark, and south of the forty-sixth parallel of latitude, except the counties of Todd, Gregory, Lyman and Presho, and so much of Boreman county as lies south of Grand river shall constitute the first judicial district.

2. All that portion of this territory north of the forty-sixth parallel of latitude, and so much of Boreman county as lies north of Grand river shall constitute the third judicial district.

3. All that portion of this territory not embraced in the first or third judicial districts shall constitute the second judicial district.

4. The district court in and for the third judicial district shall be held at Bismarck, in the county of Burleigh, on the third Tuesday of April and the second Tuesday of October in each year; and the district court within and for the first judicial district shall be held at the county seat of Pennington county, on the fourth Tuesday of May and the second Tuesday of September in each year; and the district court in and for the second judicial district shall be held at Yankton, in the county of Yankton, on the second Tuesday of March and November of each year.

§ 2. CERTAIN COURTS HAVE UNITED STATES JURISDICTION.] The district courts in and for the counties of Clay, Yankton and Cass shall have and exercise the powers and jurisdiction appertaining to the district and circuit courts of the United States in and for the several judicial districts in which they are respectively located.

## CHAPTER 13.

### SUBDIVISION OF JUDICIAL DISTRICTS.

§ 1. FIRST DISTRICT SUBDIVIDED.] The first judicial district is subdivided as follows:

1. The county of Clay constitutes one subdivision, and the district court shall be held therein on the ~~first Tuesdays of February and November.~~

2. The county of Union constitutes one subdivision, and the district court shall be held therein on the first Tuesday of June and the first Tuesday of December; and in addition thereto special terms shall be held therein on the second Tuesdays of March and August.

3. The county of Lincoln constitutes one subdivision, and the district court shall be held therein on the first Tuesdays of April and October: *Provided, however,* That no April term shall be held therein except upon the request of the board of commissioners for said county.

4. The counties of Minnehaha and Lake constitute one subdivision, and the district court shall be held therein on the third Tuesday of May, in each year, at the county seat of Minnehaha county, and the county of Lake shall furnish a proportionate share of the jurymen for said court, and pay the same, but shall pay no other expense of said court unless there shall be at any term of said court business in said court from said county of Lake, in which event said county of Lake shall pay her proportionate share of the expenses of said court as provided by this act.

5. The remainder of the first judicial district not included within the preceding subdivisions constitute one subdivision, and the district court shall be held therein on the first Tuesday of May, at the county seat of Moody county: *Provided, however,* That such term shall not be held except upon the order of the judge thereof.

§ 2. SECOND DISTRICT SUBDIVIDED.] The second judicial district is subdivided as follows:

1. The county of Bon Homme constitutes one subdivision, and the district court shall be held therein on the third Tuesdays of March and September.

2. The county of Turner constitutes one subdivision, and the district court shall be held therein on the first Tuesday of June.

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

4. The county of Yankton and all other portions of said second judicial district not included in any of the preceding subdivisions constitute one subdivision, and the district court shall be held therein at the county seat of Yankton county on the second Tuesdays of April and October; and, in addition thereto, special terms shall be held at said county seat on the first Mondays of January, March, May, July, September, and November.

§ 3. THIRD DISTRICT SUBDIVIDED.] The third judicial district is subdivided as follows:

1. The counties of Cass, Stutsman, Richland, Ransom, Lamoure, Traill, Grand Forks, Pembina, Barnes, Foster, Ramsey, Cavalier, Gingras, French, and Rolette, constitute one subdivision, and the district court shall be held therein at the county seat of Cass county, on the fourth Tuesday of May and the first Tuesday of September.

2. All the remaining portions of said third judicial district constitute one subdivision, and the district court shall be held therein at the county seat of Burleigh county on the second Tuesday of May and the third Tuesday of September.

§ 4. COURTS HELD AT COUNTY SEATS.] The terms of the district courts for subdivisions composed of a single county only shall be held at their respective county seats.

§ 5. JUDGES MAY APPOINT TERMS.] The judges of the district courts respectively 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 as herein provided, and shall itself constitute a subdivision, and the district courts shall be therein held at the times provided in such order.

§ 6. SHERIFF SERVES PROCESS THROUGHOUT SUBDIVISION.] In subdivisions composed of two or more counties, the sheriff of the county where the court is held shall have authority to execute all proper process in any county or other place embraced within such subdivision, the same as if such subdivision were composed of his county only.

§ 7. METHOD PAYING COURT EXPENSES IN SUBDIVISIONS.] For the purpose of paying the expenses of holding courts in those subdivisions composed of two or more counties, the county clerks of the organized counties therein shall, annually, as soon as the assessment roll is received, transmit to the clerk of the court of that county wherein 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 the clerk thereof 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 certify to the boards of county commissioners of the respective counties, accounts for such proportionate amounts, and in

favor of the persons to whom such expenses shall be due, which accounts shall be audited and allowed and warrants issued accordingly, in like manner as other claims against a county.

§ 8. COURT MAY COMPEL COUNTIES.] If any county shall fail to furnish a statement of the amount of its assessment roll, or if no assessment shall be made therein, the judge of the district court may fix the proportionate amount of the expenses of the court which such county shall pay, and may at any time, by mandamus, compel the assessment, and levy of a tax, or the doing of any other act necessary to carry out the provisions of this chapter.

§ 9. ADDITIONAL TERMS OF COURT—PROVISION FOR BLACK HILLS COUNTIES.] The judges of the district courts respectively shall have the power, whenever thereunto requested by the board of commissioners of the county wherein terms of court are regularly holden, 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. The courts herein appointed shall continue as long as the business therein shall require: *Provided, however,* that if the congress of the United States shall ratify the agreement with the Sioux Indians ceding the Black Hills then immediately thereafter, the first judicial district as herein provided shall become a part of the second judicial district, and the district courts of the counties above named shall be held at the time and places herein provided, and the first judicial district shall be subdivided as follows: The county of Lawrence shall constitute one subdivision, and the district court shall be therein held on the first Tuesdays of June, and October, of each year. The counties of Custer and Pennington shall constitute one subdivision, and the district court shall be therein held on the fourth Tuesday of May and the second Tuesday of September in each year.

## CHAPTER 14.

### CLERK OF DISTRICT COURTS.

§ 1. JUDGES APPOINT CLERKS.] 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 be a resident of the district and a qualified voter thereof, who shall procure and keep a seal of the court for that county, and when courts are appointed therein shall perform all duties pertaining to that office, and shall keep his office at the county seat of his county.

§ 2. CLERK RESPONSIBLE ON BOND FOR NEGLIGENCE.] Any person who may, at any time, be injured or aggrieved by reason of the violation of the duties of his office, on the part of any such clerk of the district court, or by any willful neglect or refusal to perform any of the duties pertaining to the office of clerk of the district courts, as the same are or may be prescribed by law, may institute legal proceedings upon the bond of such clerk, and collect thereon double the amount of damages actually sustained by such aggrieved person, which suit may be brought before any court having competent jurisdiction, and the county treasurer is also authorized and required for every such violation or neglect of duty, to collect a fine of not less than fifty dollars for any such violation of duty, or refusal or neglect on the part of said clerk of the district court.

§ 3. MUST PERFORM DUTIES.] It shall be the duty of the clerk of the district court to perform all duties which are or may be assigned him by law, and the rules of the court of which he is clerk, made in pursuance of the statute in such case provided.

§ 4. DEPUTY ACTS IN ABSENCE OF CLERK.] In the absence of the clerk of the district court from his office, or from the court, the deputy, appointed in pursuance of law, may perform all the duties pertaining to the office.

§ 5. CLERK MAY ADJOURN TERM, OR JUDGE DO SO BY WRITTEN ORDER.] The clerk of any district court, whenever the judge, whose duty it may be to preside therein, is hindered or delayed from any cause, from being at the place of holding the same, on the first, second or third day of the term thereof, is hereby authorized to adjourn said court from day to day, until the fourth day of said term, then if said judge does not appear and take his seat to preside therein, and the clerk does not receive a written order of adjournment, the clerk aforesaid shall adjourn said court without day; but the justice may, by written order to the clerk, have an adjournment of any term of court within the four days as aforesaid, to such other time as he may therein appoint; and such adjourned term shall be considered as a regular term for all lawful purposes whatever.

## CHAPTER 15.

### DISTRICT ATTORNEY.

§ 1. ATTORNEY FOR EACH JUDICIAL DISTRICT AFTER 1878.] There shall be elected at the general election in 1878, and biennially thereafter, in each judicial district, a district attorney, who shall be a resident of the district for which he shall be elected, and shall hold his office for the term of two years, and until his successor shall have been elected and qualified, and from and after the election and qualification of such district attorneys, the office of county district attorney shall cease, and said county district attorneys shall transfer and turn over to the district attorneys for the districts in which their counties are severally included, all official business in their hands.

§ 2. DUTIES OF DISTRICT ATTORNEYS.] It shall be the duty of the district attorneys of the several judicial districts, to appear in the district courts of their respective districts, and prosecute or defend on behalf of the counties in his district or of the territory, all suits, indictments, applications, motions or special proceedings, civil or criminal, in which the territory or any county in his district is interested as a party.

§ 3. TO RECEIVE ONLY LAWFUL FEES.] No district attorney shall receive any fee or reward for services in any prosecution or business to which it shall be his duty to attend other than what is or may be provided by law.

§ 4. VACANCIES FILLED BY GOVERNOR.] In case the office of district attorney shall become vacant by death, resignation, or otherwise, or in case the person elected to the office shall fail or refuse to qualify, the governor shall forthwith appoint some suitable person to be district attorney until the next general election.

## CHAPTER 16.

### COMMISSIONERS.

§ 1. GOVERNOR MAY APPOINT—POWERS.] The governor shall have power to appoint one or more commissioners in any state of the United States, or of the territories belonging to the United States, who shall continue in office during the pleasure of the governor, and shall have authority to take the acknowledgment and proof of the execution of any deed, or other conveyance, or lease of any lands lying in this territory, and of any contract, letter of attorney, or any other writing under seal or not, to be used or recorded in this territory.

§ 2. COMMISSIONER MUST HAVE SEAL.] Each commissioner so appointed as herein provided shall have an official seal on which shall be engraved the words "Commissioner of Dakota Territory," with his surname at length, and at least the initials of his christian name; also the name of the state or territory in which he has been commissioned to act; which seal must be so engraved as to make a clear impression on wax or wafer.

§ 3. ACKNOWLEDGMENTS VALID.] All acknowledgments and proofs as herein provided, taken according to the laws of this territory and certified to by such commissioner under his seal of office, and annexed to or indorsed on such instrument, shall have the same power and effect as if the same had been made before any officer authorized to perform such acts in this territory.

§ 4. MAY ADMINISTER OATHS AND TAKE DEPOSITIONS.] Every commissioner, appointed as before mentioned, shall have power to administer an oath which may be lawfully required in this territory to any person willing to take the same, and to take and duly certify all depositions to be used in any of the courts of this territory in conformity to the laws thereof, either on interrogatories proposed under a commission from any court of this territory, or by consent of parties, or on legal notice given to the opposite party; and all such acts shall be as valid as if done and certified according to law by a proper officer in this territory.

§ 5. QUALIFICATION, OATH AND SEAL.] Every such commissioner, before performing any duty, or exercising any power by virtue of his appointment, must take and subscribe an oath or affirmation before a judge or clerk of some court of record, having a seal of the state or territory in which such commissioner shall reside, well and faithfully to execute and perform all the duties of such commissioner, under and by virtue of the laws of the territory of Dakota, with a description and impression of his seal of office, must be filed in the office of the secretary of this territory.

## CHAPTER 17.

### NOTARIES PUBLIC.

§ 1. GOVERNOR APPOINTS—TERM—TERRITORIAL JURISDICTION.] The governor shall appoint in each of the organized counties in this territory from among the eligible citizens thereof, one or more notaries public, who shall be considered territorial officers, and shall hold their office for the term of four years, unless sooner removed by the governor, and who shall have power to act by virtue of their office within the territory.

§ 2. QUALIFICATION, OATH AND BOND.] Each and every notary public, before he enters on the duties of his office, shall take an oath to support the constitution of the United States and the act organizing this territory, and to faithfully and impartially discharge the duties of his said office, and shall give bond to the people of the territory, to be approved by the clerk of the district court of his county, or judicial subdivision, with one or more sureties, in the penal sum of five hundred dollars, conditioned for the faithful discharge of the duties of his said office.

§ 3. VACANCY—RECORDS DEPOSITED WITH CLERK DISTRICT COURT. Whenever the office of any notary public shall become vacant, the records of said notary public, together with all the papers relating to the office, shall be deposited in the office of the clerk of the district court in the county in which the said notary public resides; and any notary public who, on his resignation or removal from office, shall neglect to deposit such records and papers in the clerk's office, as aforesaid, for the space of three months, shall forfeit and pay a sum not less than fifty dollars, nor more than five hundred dollars; and if any executor or administrator of any deceased notary public shall neglect to lodge such records and papers as aforesaid, which come into his hands, in the clerk's office, for the space of three months after said records and papers shall come into his possession, he shall forfeit and pay a sum not less than fifty dollars, nor more than five hundred dollars; and if any person shall knowingly destroy, deface, or conceal any records or papers of any notary public, he shall forfeit and pay a sum not less than fifty dollars, nor more than five hundred dollars, and shall be moreover liable to an action by the party injured.

§ 4. PROTEST OF BILLS AND NOTES.] It shall be the duty of each and every notary public, when any bill of exchange, promissory note, or other written instrument, shall be by him protested for non-acceptance or non-payment, to give notice in writing thereof to the maker, and each and

every indorser of a bill of exchange, and to the maker or makers of, and each and every security or indorser of any promissory note or other written instrument, immediately after such protest shall have been made.

§ 5. SERVICE OF NOTICE OF PROTEST.] It shall be the duty of every notary public personally to serve the notice upon the person or persons protested against; in case the person cannot be found, said notary public shall serve notice of protest by leaving a copy of the same at the last and usual place of abode of said person or persons: *Provided*, He or they reside within two miles of the residence of such notary public; but if such person or persons reside more than two miles from such residence, the said notice may be forwarded by mail or other safe conveyance.

§ 6. RECORD OF NOTICES AND COPY EVIDENCE.] Each and every notary public shall keep a record of all such notices, and of the time and manner in which the same shall have been served, and of the names of all the parties to whom the same were directed, and the description and amount of the instrument protested; which record, or a copy thereof certified by the notary under seal, shall at all times be competent evidence to prove such notice in any trial, before any court in this territory, where proof of such notice may become requisite.

§ 7. CLERKS OF COURT TO RECEIVE AND KEEP RECORDS.] It shall be the duty of the several clerks of the district courts to receive and keep safe all the records and papers directed by this chapter to be deposited in their office, and give attested copies of any of said records or papers when required; and copies so given by the said clerk are hereby declared to be as valid as if the same had been given by the said notaries public. All forfeitures under this act shall be, one half to the use of this territory, and the other half to him or them who shall sue for the same; to be recovered in a civil action, in any court having jurisdiction of the same in the county where such notary public shall reside.

§ 8. NOTARIAL SEAL—IMPRESSION OF SAME.] Every notary public, before he enters upon the duties of his office, shall provide an official seal and deposit an impression of the same, together with said oath and bond, in the office of the secretary of the territory.

§ 9. COMMISSION RECORDED BY CLERK.] Upon the commission, each notary shall affix his official signature and seal, and file the same for record with the clerk of the district court of his county or subdivision, who shall record the same in a book kept for that purpose; and it shall be deemed sufficient evidence to enable such clerk to certify that the person so commissioned is a notary public during the time such commission is in force.

§ 10. REVOCATION TO BE NOTICED TO CLERK.] Should the commission of any person so appointed be revoked, the secretary shall immediately notify such person, and the clerk of the district court of the proper county or subdivision, through the mail.

§ 11. FULL CREDIT TO NOTARIAL ACTS.] Full faith and credit shall be given to all the protestations, attestations and other instruments of publication of all notaries public now in office, or hereafter to be appointed under the provisions of this chapter.

## CHAPTER 18.

### ATTORNEYS AND COUNSELORS AT LAW.

§ 1. WHO MAY BE LICENSED TO PRACTICE AS ATTORNEYS.] All persons who, by the laws heretofore in force, were permitted to practice as attorneys and counselors at law, may continue to practice as such; and, hereafter, any person twenty-one years of age, who is an inhabitant of this territory, who satisfies any court of record, either on examination or by certificate of admission from any other territory or state, that he possesses the requisite learning, and is of good moral character, may, by such court, be licensed to practice as an attorney and counselor; *Provided*, That no person shall be admitted to practice in the supreme court unless he shall have been first licensed to practice in some one of the district courts, or, on the presentation of a certificate of admission to practice in the supreme court of some other territory or state.

§ 2. OATH IN OPEN COURT.] Upon being admitted to practice as attorneys and counselors at law they shall, in open court, take the following oath:

“ You do solemnly swear that you will support, protect and defend the constitution of the United States and the organic act of the territory of Dakota; that you shall do no falsehood or consent that any be done in court, and if you know of any, you will give knowledge thereof to the judge of the court or some one of them, that it may be reformed; you shall not wittingly, willingly or knowingly promote, sue, or procure to be sued, any false or unlawful suit, or give aid or consent to the same; you shall delay no man for lucre or malice, but shall act in the office of attorney in this court according to your best learning and discretion, with all good fidelity, as well to the court as to your client. So help you God.”

§ 3. ATTORNEYS FROM OTHER STATES.] Any practicing attorney of another state, having professional business in the courts of this territory, may be admitted to practice therein upon taking the oath aforesaid.

§ 4. DUTIES OF AN ATTORNEY.] It is the duty of an attorney and counselor:

1. To maintain the respect due to the courts of justice and judicial officers.

2. To counsel or maintain no other actions, proceedings or defenses than those which appear to him legal and just, except the defense of a person charged with a public offense.

3. To employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth, and never to seek to mislead the judges by any artifice or false statement of fact or law.

4. To maintain inviolate the confidence, and, at any peril to himself, to preserve the secret of his client.

5. To abstain from all offensive personalities, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged.

6. Not to encourage either the commencement or continuance of an action or proceeding from any motive of passion or interest.

7. Never to reject, for any consideration personal to himself, the cause of the defenseless or the oppressed.

§ 5. PUNISHMENT FOR DECEIT.] An attorney and counselor who is guilty of deceit or collusion, or consents thereto, with intent to deceive a court, or judge, or party to an action or proceeding, is liable to be disbarred, and shall forfeit to the injured party treble damages, to be recovered in a civil action.

§ 6. POWER OF AN ATTORNEY.] An attorney and counselor has power:

1. To execute in the name of his client a bond, or other written instrument, necessary and proper for the prosecution of an action or proceeding about to be or already commenced; or for the prosecution or defense of any right growing out of an action, proceeding, or final judgment rendered therein.

2. To bind his client to any agreement, in respect to any proceeding within the scope of his proper duties and powers; but no evidence of any such agreement is receivable, except the statement of the attorney himself, his written agreement signed and filed with the clerk, or an entry thereof upon the records of the court.

3. To receive money claimed by his client in an action or proceeding during the pendency thereof, or afterwards, unless he has been previously discharged by his client, and upon payment thereof, and not otherwise, to discharge the claim or acknowledge satisfaction of the judgment.

§ 7. PROOF OF ATTORNEY'S AUTHORITY.] The court may, on motion, for either party, and on the showing of reasonable grounds therefor, require the attorney for the adverse party, or for any one of the several adverse parties, to produce, or prove by his oath or otherwise, the authority under which he appears, and until he does so, may stay all proceedings by him on behalf of the parties for whom he assumes to appear.

§ 8. ATTORNEY MUST NOT BE SURETY.] No practicing attorney and counselor shall be a surety in any suit or proceeding which may be instituted in any of the courts of this territory.

§ 9. LIEN FOR COMPENSATION.] An attorney has a lien for a general balance of compensation in and for each case upon:

1. Any papers belonging to his client, which have come into his hands in the course of his professional employment in the case for which the lien is claimed.

2. Money in his hands belonging to his client in the case.

3. Money due his client in the hands of the adverse party, or attorney of such party, in an action or proceeding in which the attorney claiming the lien was employed, from the time of giving notice in writing to such

adverse party, or attorney of such party, if the money is in the possession or under the control of such attorney, which notice shall state the amount claimed, and, in general terms, for what services.

4. After judgment in any court of record, such notice may be given, and the lien made effective against the judgment debtor, by entering the same in the judgment docket opposite the entry of the judgment.

§ 10. LIEN RELEASED BY BOND.] Any person interested may release such lien by executing a bond in a sum double the amount claimed, or in such sum as may be fixed by a judge, payable to the attorney, with security to be approved by the clerk of the court, conditioned to pay the amount finally due the attorney for his services, which amount may be ascertained by suit on the bond. Such lien will be released, unless the attorney, within ten days after demand therefor, furnishes any party interested a full and complete bill of particulars of the services and amount claimed for each item, or written contract with the party for whom the services were rendered.

§ 11. COURT MAY REVOKE OR SUSPEND LICENSE.] Any court of record may revoke or suspend the license of an attorney or counselor at law to practice therein, but not until a copy of the charges against him shall have been delivered to him by the clerk of the court in which the proceedings shall be had, and an opportunity shall have been given to him to be heard in his defense.

§ 12. CAUSES FOR SUSPENSION.] The following are sufficient causes for revocation or suspension:

1. When he has been convicted of a felony, or of a misdemeanor involving moral turpitude, in either of which cases the record of conviction is conclusive evidence.

2. When he is guilty of a willful disobedience or violation of the order of the court, requiring him to do or forbear an act connected with, or in the course of, his profession.

3. For a willful violation of any of the duties of an attorney or counselor as hereinbefore prescribed.

4. For doing any other act to which such a consequence is by law attached, or upon conviction for any of the offenses mentioned in sections 201, 202, 209 and 210 of the penal code.

§ 13. PROCEEDING TO REMOVE OR SUSPEND.] The proceeding to remove or suspend an attorney may be commenced by direction of the court, or on motion of any individual. In the former case the court must direct some attorney to draw up the accusation; in the latter the accusation must be drawn up and sworn to by the person making it.

§ 14. ACCUSATION—HOW ANSWERED.] To the accusation he may plead or demur, and the issues joined thereon shall, in all cases, be tried by the court, all the evidence being reduced to writing, filed and preserved.

§ 15. JUDGMENT ON PLEA OF GUILTY.] If the accused plead guilty, or fail to answer, the court shall proceed to render such judgment as the case requires.

§ 16. APPEAL FROM JUDGMENT.] In case of removal or suspension being ordered by a district court an appeal therefrom lies to the supreme court, and all the original papers, together with a transcript of the record, shall thereupon be transferred to the supreme court, to be there considered and finally acted upon. A judgment of acquittal by the district court is final.

§ 17. REFUSAL TO PAY OVER MONEY.] An attorney who receives the money or property of his client in the course of his professional business and refuses to pay or deliver it in a reasonable time after demand, is guilty of a misdemeanor.

§ 18. NO PENALTY UNLESS LIEN SECURED.] When the attorney claims to be entitled to a lien upon the money or property, he is not liable to the penalties of the preceding section until the person demanding the money or property proffers sufficient security for the payment of the amount of the attorney's claim when it is legally ascertained.

§ 19. NO LIABILITY IF SECURITY GIVEN.] Nor is he in any case liable as aforesaid, provided he gives sufficient security that he will pay over the whole, or any portion thereof, to the claimant when he is found entitled thereto.

## CHAPTER 19.

## JURORS.

§ 1. QUALIFICATION OF JURORS.] All male citizens residing in any of the counties of this territory having the qualifications of electors, and being over the age of twenty-one years, and of sound mind and discretion, and not judges of the supreme court or district courts, clerks of the supreme or district courts, sheriffs, coroners, licensed attorneys engaged in the practice, or jailors, and not subject to any bodily infirmity amounting to a disability, and who have not been convicted of a criminal offense punishable by imprisonment in the penitentiary, and not subject to disability for the commission of any offense, which by special provision of law does or shall disqualify them, are and shall be competent persons to serve on all grand and petit juries within their counties or subdivisions respectively: *Provided*, That persons over sixty years of age, ministers of the gospel, probate judges, county commissioners, registers of deeds, practicing physicians, postmasters and carriers of the United States mail, shall not be compelled to serve as jurors.

§ 2. TWO HUNDRED NAMES FROM LAST TAX LIST.] In each of the counties wherein a district court is appointed or directed to be holden, two hundred names of qualified persons shall be selected from the last annual tax list, and furnished to the clerks of the district courts by the county commissioners 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 court when a jury or juries have been drawn and summoned, 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 of two hundred full; and such county commissioners shall, at their first meeting after receiving such requisition, furnish such number of names, so selected, of persons so qualified, to complete and keep full such number of two hundred: *Provided*, That upon discovery by the court or county commissioners of the name of any person who is a non-resident or disqualified, they shall withdraw such name.

§ 3. HOW DRAWN IN SUBDIVISIONS.] To enable juries to be drawn and summoned in those subdivisions composed of two or more counties, the county clerks of all the organized counties therein shall, as soon as the assessment roll is returned, and yearly thereafter, 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 herein provided.

§ 4. WHEN COUNTY FAILS.] 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 affect the drawing or summoning of either a grand or petit 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.

§ 5. JURY SUMMONED ONLY ON ORDER OF DISTRICT COURT.] No jury shall be summoned except by order of the judge of the district court, who shall issue an order to the clerk of said court that a jury shall be summoned, and in such order shall specify the number of petit jurors that shall be summoned, and the time and place where they shall appear; and such order may be issued at any time within ten days before the first day of the term of the district court, or at any time during the term of said court.

§ 6. GRAND JURY HOW SUMMONED.] A grand jury shall be summoned in the same manner provided for summoning petit juries: *Provided*, That in all cases a grand jury shall consist of not less than sixteen jurors.

§ 7. CLERK PUTS NAMES ON TICKETS.] The clerk or deputy clerk receiving the names from the county commissioners as herein provided shall write the name of each person selected on a separate ticket and place the whole number of tickets in a box or other suitable and safe receptacle, and shall preserve the list of names furnished by the commissioners in the files of his office.

§ 8. CLERK AND SHERIFF DRAW JURORS BY LOT.] The clerk of the district court, or his deputy, and the sheriff or his deputy, or, if there be no sheriff, or, in case of his disability or suspension from office, the coroner shall immediately upon or within two days from the receipt of the order directing a jury to be summoned, meet together and draw by lot out of the

box or receptacle wherein shall be kept the tickets aforesaid, the number of jurors directed to be summoned by the judge of the district court. The jurors first drawn, to the number required in the order, shall serve as grand jurors, if a grand jury shall be ordered to be summoned, and the remainder drawn in compliance with said order shall serve as petit jurors.

§ 9. CLERK ISSUES VENIRES.] The clerk shall, on the day of the drawing as herein provided, issue a venire, or venires, as the case may be, directed to the proper officer of the counties respectively from which the jurors are drawn, commanding such officer to summon the persons whose names are drawn, to appear before the district court at the hour, day and place designated in the order of the judge. A separate venire shall issue for the grand jury when such jury shall be ordered.

§ 10. VENIRE HOW SERVED.] The officer receiving such venire shall forthwith serve the same, by reading or delivering a true copy thereof to each person therein named, or by leaving such a copy at his usual place of residence ; such copy need contain only the name of the juror served : and shall make return thereof, with his proceedings indorsed thereon, to the clerk as soon as he has executed the same.

§ 11. JUROR MUST APPEAR.] Each grand and petit juror summoned shall appear before the court on the day and at the hour specified in the summons and shall not depart without leave of court.

§ 12. COURT MAY ORDER JURY FORTHWITH.] If all persons summoned as grand and petit jurors do not appear before the court, or if for any cause the panel of the grand jurors or petit jurors is not complete, or if no jury be drawn as above provided, the court may order the sheriff, deputy sheriff or coroner, to summon without delay, good and lawful men having the qualifications of jurors, and the person or persons summoned shall forthwith appear before the court and if competent shall serve on the grand jury or petit jury, as the case may be, unless such person or persons may be excused from serving or lawfully challenged.

§ 13. SUMMONS TO COMPLETE SPECIAL PANEL.] Whenever the panel of petit jurors shall be exhausted by the challenges of either party, in any action, the judge of the court shall order the sheriff, deputy sheriff or coroner, to summon without delay, a sufficient number of persons possessing the qualifications of jurors as before provided to complete the number requisite for a jury in that particular case.

§ 14. CITIZENS MUST BE SELECTED IN ROTATION.] It shall be the duty of the county commissioners in selecting and furnishing to the clerk the number of persons qualified to serve as grand and petit jurors, so to select and arrange that no one person shall come on the jury a second time before all qualified persons shall have served respectively in rotation according to the best information that can be obtained.

§ 15. FAILURE TO APPEAR PUNISHABLE.] If any person summoned to appear as grand juror or petit juror, fails, refuses or neglects to appear, such person shall be considered guilty of contempt of the court and may be

fined by the court in any sum not less than five nor more than fifty dollars, and if any person when a second order of attachment is issued, neglects or refuses to appear, such person may be fined as above provided and imprisoned by the court not longer than ten days in the county jail, and if the county commissioners of any county willfully neglect or fail to select and furnish to the clerk names of persons as hereinbefore provided, such persons so offending may be fined by the court not less than five nor more than fifty dollars, and if the clerk of the district court, or deputy clerk, or sheriff, deputy sheriff or coroner, so neglect or fail to perform the duties imposed by this act, the persons so offending shall be considered guilty of contempt of court and may be fined by the court not less than five nor more than fifty dollars, and if guilty of gross misconduct in office and contempt in disregarding the provisions of this act, may be imprisoned by the court not longer than thirty days in the county jail.

## CHAPTER 20.

### ADMINISTRATION OF OATHS.

§ 1. OFFICERS AUTHORIZED TO ADMINISTER OATHS.] The following officers are authorized to administer oaths:

Each justice of the supreme court;

Clerks of the supreme and district courts and their deputies within their respective counties;

County clerks and their deputies, and county commissioners within their respective counties;

Judges of the probate court, justices of the peace and notaries public within their respective counties.

Each sheriff and his deputies, in cases where they are authorized by law to select commissioners or appraisers, or to empanel juries for the view or appraisal of property, or are directed as an official duty to have property appraised, or take the answers of garnishees.

§ 2. PERSONS MAY AFFIRM. Persons conscientiously opposed to swearing may affirm, and shall be subject to the penalties of perjury as in case of swearing.

## CHAPTER 21.

# COUNTIES AND COUNTY OFFICERS.

### ORGANIZATION OF COUNTIES.

§ 1. FIFTY VOTERS TO ORGANIZE COUNTY.] Whenever the voters of any unorganized county in this territory shall be equal to fifty or upwards, and they shall desire to have said county organized, they may petition the Governor, setting forth that they have the requisite number of voters form a county organization, and request him to appoint the officers specified in the next section of this act.

§ 2. PETITION TO GOVERNOR AND APPOINTMENTS.] Whenever the voters of any unorganized county in the territory shall petition the governor, as provided in the preceding section, and the said governor shall be satisfied that such county has fifty legal voters, it shall be the duty of the governor, and he is hereby authorized to appoint three persons, residents thereof, county commissioners for such county, who shall hold their office until the first general election thereafter, and until their successors shall be elected and qualified.

§ 3. COMMISSIONERS QUALIFY AND APPOINT OFFICERS.] Said county commissioners, after having qualified according to law, shall appoint all the county officers of said county required by law, who, after having qualified, shall hold their office until the next general election, and until their successors shall have been elected and qualified.

§ 4. COMMISSIONERS' DUTIES.] The county commissioners appointed under this act shall have the power to locate the county seat of such county temporarily, and shall divide the county into three commissioner districts, which shall be numbered from one to three, and said districts shall not be changed oftener than once in three years, and then only at the regular sessions in January, April or July, and one commissioner shall be elected from each of said districts at the next general election after such organization, one of whom shall be chosen for the term of one year, one for two years, and the third for three years, and one annually thereafter, as provided by law.

§ 5. ANNEXED TERRITORY PART OF COUNTY.] Such portions of the territory not organized into counties as are annexed to any organized county, shall for judicial and other purposes be deemed to be within the limits and a part of the county to which they are annexed.

## LOCATION OF COUNTY SEATS.

§ 6. COUNTY SEAT LOCATED BY MAJORITY VOTE.] When any county shall be organized as herein provided, the qualified voters thereof are hereby empowered to select the place of the county seat by ballot at the first general election at which the county officers are chosen, and for this purpose each voter may designate on his ballot the place of his choice for the county seat, and when the votes are canvassed the place having the majority of all votes polled shall be the county seat, and public notice of said location shall be given within thirty days by the county commissioners, by posting up notices in three several places in each precinct in the county; and if no one place voted for shall have a majority of all the votes cast, the place as located temporarily by the county commissioners shall remain the county seat until changed as provided in the next section.

§ 7. COUNTY SEAT CHANGED BY TWO-THIRDS VOTE.] Whenever the inhabitants of any county are desirous of changing the place of their county seat, and upon petitions being presented to the county commissioners, signed by two-thirds of the qualified voters of the county, it shall be the duty of the said board, in the notices for the next general election, to notify said voters to designate upon their ballots, at said election, the place of their choice; and if, upon canvassing the votes so given, it shall appear that any one place has two-thirds of the votes polled, such place shall be the county seat, and notice of such change shall be given as hereinbefore provided in the case of the location of county seats of new counties.

§ 8. COUNTY SEAT ON PUBLIC LANDS.] Whenever any county seat shall be located upon the public lands, it shall be the duty of the county commissioners to enter or purchase a quarter section of land at the place so designated, at the expense of and for the use of the county, within three months thereafter, if said land be subject to private entry; if not, the board shall claim the same as a pre-emption under the laws of the United States, for the use of said county.

§ 9. COMMISSIONERS TO SURVEY AND PLAT SAME.] The county commissioners shall, within three months after the selection, cause the same to be surveyed in town lots, squares, streets and alleys, and platted and recorded in pursuance of law, and shall select the place for the county buildings thereon, reserving for that purpose so many of said lots as may be deemed necessary.

§ 10. SURPLUS LOTS SOLD.] The remainder of said lots shall be offered at public sale by the sheriff of said county to the highest bidder, at the times and places to be designated in the notices of such sales, which shall be posted at three public places in the county, and published in some newspaper, at least thirty days previous to such sales. The terms of sale shall be one-third cash and the balance on time, as the county commissioners may deem best, and they may dispose of lots at private sale upon terms as above provided.

§ 11. CERTIFICATE TO PURCHASER.] Purchasers of the aforesaid lots shall receive a certificate of purchase from said sheriff, entitling the holder to a warranty deed from the county commissioners when payment in full shall be made for the same ; any lots sold as above, that shall not be paid for as provided in this chapter, or within one year thereafter, shall be forfeited to the county and shall be again sold as herein provided.

§ 12. NET PROCEEDS PAID INTO TREASURY.] The proceeds of the sales of the aforesaid lots, after deducting the expenses of the surveying, advertising, selling, and all other necessary expenses, shall be paid into the county treasury, and shall constitute a fund for the erection of public buildings for the use of the county, at the county seat, and shall be used for no other purpose whatever.

CORPORATE POWERS AND LIABILITIES.

§ 13. COUNTY BODY CORPORATE—POWERS.] Each organized county is a body corporate for civil and political purposes only, and as such may sue and be sued, plead and be impleaded, in any court in this territory ; and in all cases where lands have been granted to any county for public purposes, and any part thereof has been sold, and the purchase money, or any part thereof, shall be due and unpaid, all proceedings necessary to be had to recover possession of such lands, or to enforce the payment of the purchase money, shall be instituted in the name of the proper county.

§ 14. JUDGMENTS AGAINST, LIEN ON COUNTY PROPERTY.] When any judgment is obtained against the county, it shall be a lien upon the property of the county, and the public property shall be liable therefor ; but no execution shall issue therein until the board of county commissioners shall have had six months time to assess and collect a sufficient amount of revenue, under the provisions of this chapter, to pay off and discharge said judgments, in addition to the ordinary expenses of the county.

OFFICERS.

§ 15. OFFICERS OF ORGANIZED COUNTIES—ELECTION.] Each organized county shall have the following officers, to wit : Three commissioners, who shall constitute the board of county commissioners, one register of deeds, one county clerk, one clerk of the district court, one sheriff, one assessor, one judge of the probate court, one county treasurer, one county surveyor, one coroner, one superintendent of public schools, four justices of the peace, and four constables, who shall possess the qualifications of electors ; and shall be chosen by the qualified electors of their respective counties at the general election in the year 1878, and every two years thereafter, except commissioners (who shall be chosen as hereinafter provided), county clerk and clerk of the district court.

OF THE BOARD OF COUNTY COMMISSIONERS.

§ 16. COMMISSIONERS' TERMS, SUCCESSION AND DISTRICTS.] The commissioners shall hold their office for the term of three years, except as provided in the

statute for the organization of counties, and one shall retire and one be chosen annually, and in counties now organized the order of their election and succession shall remain as now established, and commissioner districts in such counties shall continue as now constituted until changed as provided by law.

§ 17. COUNTY SEAL. The board of county commissioners hereby established shall procure and keep a seal with such emblems and devices as they may think proper, which shall be the seal of the county, and no other seal shall be used by the county clerk; and the impression of the seal, hereby required to be kept, by the stamp, shall be sufficient sealing in all cases where sealing is required.

§ 18. SESSIONS OF BOARD, TIME AND PLACE.] The county commissioners shall meet and hold sessions for the transaction of business at the court houses in their respective counties, or at the usual place of holding court, on the first Monday in January, April, July and October of each year, and may adjourn from time to time, and the county clerk shall have power to call special sessions when the interest of the county demands it, upon giving five days notice of the time and object of calling the commissioners together, by posting up notice in three public places in the county, or by publication in one newspaper in the county: *Provided*, That in case of a vacancy in the office of the register of deeds, the chairman of the board shall have power to call a special session for the purpose of filling the same.

§ 19. ELECTION OF CHAIRMAN OF BOARD.] At the first meeting of the county commissioners in each and every year, they shall elect one of their number chairman, who shall act as chairman of the board of said commissioners during the year in which he is elected, or until his successor is elected, and in case of a vacancy, from any cause whatever, the board of county commissioners shall elect another chairman.

§ 20. DUTIES OF CHAIRMAN.] It shall be the duty of the chairman of the board of county commissioners to preside at the meetings of said board, and all orders made by the board of county commissioners, and all warrants drawn on the county treasurer, shall be signed by the chairman and attested by the county clerk.

§ 21. TIE VOTE DEFERS DECISION.] When the board of county commissioners are equally divided on any question they shall defer a decision until the next meeting of the board, and then the matter shall be decided by a majority of the board.

§ 22. COPIES OF PROCEEDINGS EVIDENCE.] Copies of the proceedings of the board of county commissioners, duly certified and attested by the county clerk, under seal, shall be received as evidence in all courts of this territory.

§ 23. BOARD POWER TO PRESERVE ORDER.] The board of county commissioners shall have the power to preserve order when sitting as a board, and may punish contempts by fines not exceeding five dollars, or by imprisonment in the county jail not exceeding twenty-four hours; they may enforce obedience to all orders made by attachment or other compulsory process,

and when fines are assessed by them the same may be collected before any justice of the peace having jurisdiction, and shall be paid over as other fines, within ten days after they are collected.

§ 24. BOARD TO KEEP ACCOUNT WITH TREASURER.] The said commissioners shall keep a distinct account with the treasurer of the county, in a book to be provided for that purpose, commencing from the day on which the treasurer became qualified and continuing until the same or another person is qualified as treasurer, in which account they shall charge the treasurer with all sums paid him, and for all sums for which the said treasurer is accountable to the county, and they shall credit him with all warrants returned and cancelled, with all moneys paid, and with all vouchers presented by him, and with all matters with which the treasurer is to be credited on account; and the said board shall, in their settlement with the treasurer, keep the general, special and road tax separate, that any citizen of the county may see how the same is expended.

§ 25. BOARD SHALL KEEP RECORD.] They shall keep a book in which all orders and decisions made by them shall be recorded, except those relating to roads and bridges, and all orders for the allowance of money from the county treasury shall state on what account and to whom the allowance is made, dating the same and numbering them consecutively, as allowed, from the first day of January to the thirty-first day of December in each year.

§ 26. RECORD AS TO BRIDGES AND ROADS.] They shall keep a book for the entry of all proceedings and adjudications relating to bridges and the establishment, change or discontinuance of roads.

§ 27. WARRANT REGISTER.] They shall keep a book for the entry of warrants on the county treasurer, showing number, date, amount and name of the drawee of each warrant drawn on the treasury, which may be known as the warrant book, and the warrants shall be numbered in relation to the order and decision allowing the amount for which the same is drawn.

§ 28. BOARD MAY PROSECUTE CIVIL ACTIONS.] They shall have power to institute and prosecute civil actions in the name of the county, for and on behalf of the county.

§ 29. SPECIFIC POWERS OF BOARD.] They shall have power to make all orders respecting property of the county, to sell the public grounds of the county, and to purchase other grounds in lieu thereof; and for the purpose of carrying out the provisions of this section, it shall be sufficient to convey all the interest of the county in such grounds, when an order is made for the sale and a deed is executed in the name of the county by the chairman of the board of commissioners, reciting the order, and signed and acknowledged by him for, and on behalf of the county: *Provided, however,* That the question of the sale of such public grounds or lands shall be first submitted to a vote of the people of the county, as hereinafter provided, and sanctioned by a majority vote thereof.

2. They shall have power to levy a tax not exceeding the amount now authorized by law, and to liquidate indebtedness.

3. To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county, or appropriated for its benefit.

4. To construct and repair bridges, and to open, lay out, vacate and change highways; to establish election precincts in their county and appoint the judges of election, and to equalize the assessment roll of their county, in the manner provided by law.

5. To furnish the necessary blank books, blanks and stationery for clerks of the district court, county clerk, register of deeds, county treasurer, and probate judge of their respective counties, to be paid out of the county treasury; also a fire proof safe, when in their judgment the same shall be deemed advisable, in which to keep all the books, records, vouchers and papers pertaining to the business of the board.

6. To do and perform such other duties and acts that boards of county commissioners are now or may hereafter be required by law to do and perform.

§ 30. SUPERINTENDENCE OF COUNTY AFFAIRS.] They shall superintend the fiscal concerns of the county, and secure their management in the best manner; they shall keep an account of the receipts and expenditures of the county, and on the first Monday of July, annually, they shall cause a full and accurate statement of the assessments, receipts and expenditures of the preceding year, to be made out in detail under separate heads, with an account of all debts payable to and by the county treasurer, and they shall have the same printed in at least one newspaper in their county, and if there be no paper in the county, the same shall be posted up at the usual place of holding their sessions, and at one public place in each precinct of the county.

§ 31. BOARD MAY PROCURE ORIGINAL FIELD NOTES.] Said board is authorized to procure for their county a copy of the field notes, as soon as practicable, of the original survey of their county by the United States, and cause a map of the county to be constructed therefrom, on a scale of not less than one inch to a mile, and laid off in congressional townships and sections, to be kept open in the office of the county clerk, and the field notes to be deposited in the same office.

§ 32. SUBMIT EXTRAORDINARY OUTLAY TO VOTE.] They shall submit to the people of the county, at any regular or special election, any question involving an extraordinary outlay of money by the county, or any expenditure greater in amount than can be provided for by the annual tax, or whether the county will construct any court house, jail or other public building, or aid or construct any road or bridge, and may aid any enterprise designed for the benefit of the county whenever a majority of the people thereof shall authorize the same as hereinafter provided.

§ 33. DEPRECIATED WARRANTS.] When county warrants are at a depreciated value, the said commissioners may, in a like manner, submit the question whether a tax of a higher rate than that provided by law shall be levied; and in all cases when an additional tax is laid, in pursuance of a vote of the people of the county, or for constructing or ordering to be

constructed any road or bridge, or for aiding in any enterprise contemplated by the preceding section, such special tax shall be paid in money and in no other manner.

§ 34. MODE OF SUBMITTING PROPOSITIONS.] The mode of submitting questions to the people contemplated by the last two sections, shall be the following : The whole question, including the sum desired to be raised, or the amount of the tax desired to be levied, or the rate per annum and the whole regulation, including the time of its taking effect, or having operation, if it be of a nature to be set forth, and the penalty of its violation, if there be one, is to be published at least four weeks in some newspaper published in the county. If there be no such newspaper, the publication is to be made by being posted up in at least one of the most public places in each election precinct in the county, and in all cases the notices shall name the time when such question will be voted upon, and the form in which the question shall be taken, and a copy of the question submitted shall be posted up at each place of voting during the day of election.

§ 35. PROPOSITION TO TAX MUST ACCOMPANY.] When the question submitted involves the borrowing or expenditure of money, the proposition of the question must be accompanied by a proposition to lay a tax for the payment thereof, in addition to the usual taxes under section fifteen of this chapter; and no vote adopting the question proposed shall be valid, unless it likewise adopt the amount of tax to be levied to meet the liability incurred.

§ 36. SUCH TAX ANNUALLY NOT EXCEED THREE MILLS.] The rate of tax levied in pursuance of the last four sections of this chapter, shall in no case exceed three mills on the dollar of the county valuation in one year. When the object is to borrow money to aid in the erection of public buildings, the rate shall be such as to pay the debt in ten years; when the object is to construct or aid in constructing any road or bridge, the annual rate shall not exceed one mill on a dollar of the valuation; and any special tax or taxes levied in pursuance of this chapter becoming delinquent, shall draw the same rate of interest as ordinary taxes levied in pursuance of the revenue laws of this territory.

§ 37. RECORD OF VOTE—BOARD CANNOT RESCIND.] The said commissioners being satisfied that the above requirements have been substantially complied with, and that a majority of the votes cast in favor of the proposition submitted, shall cause the same to be entered at large upon the book containing the record of their proceedings, and they shall then have power to levy and collect the special tax, in the same manner that the other county taxes are collected. Propositions thus acted upon cannot be rescinded by the board of county commissioners.

§ 38. MONEY SPECIFICALLY APPLIED.] Money raised by the county commissioners, in pursuance of the last six sections, is specially appropriated and constituted a fund, distinct from all others, in the hands of the county treasurer, until the obligations assumed are discharged.

§ 39. WARRANTS, HOW SIGNED AND ATTESTED.] All warrants upon the county treasury shall be issued upon the order of the board of county

commissioners, signed by the chairman thereof and attested by the signature of the county clerk with the county seal attached; and shall designate the fund upon which they are drawn.

§ 40. SESSIONS PUBLIC AT COUNTY SEAT.] They shall hold their sessions with open doors, and transact all business in the most public manner, and where the county has no court house, or the court house shall be unfit or inconvenient, they may hold their sessions for the transaction of business at any other suitable place at the county seat. All matters pertaining to the interest of the county shall be heard by the board of commissioners in session only, but they may continue any business from any regular session to an intermediate day.

§ 41. WHAT CONSTITUTES RECORD.] The books required to be kept by this chapter shall constitute the record of the board of county commissioners..

§ 42. BOARD PROVIDES OFFICES, JAIL, COURT ROOM, &C..] In any county where there is no court house or jail erected by the county, it shall be the duty of the board of county commissioners to provide for court room, jail and offices for the several officers by law required to be furnished by such county, in a suitable building or buildings, for the lowest rent to be obtained, at the county seat; or to secure and occupy suitable rooms at a free rent within the limits of the county seat, or any of the additions thereto, until such county builds a court house. They shall also provide the courts appointed to be held therein with attendants, fuel, lights, and stationery, suitable and sufficient for the transaction of their business. If the commissioners neglect, the court may order the sheriff to do so, and the expense incurred by him in carrying the order into effect, when certified by the court, shall be a county charge.

§ 43. POWER TO ERECT BUILDINGS FROM CURRENT REVENUE.] Said board shall have authority and power, under the provisions of this chapter, to provide for the erection and repairing of court houses, jails and other necessary buildings within and for the county, and to make contracts on behalf of the county for the building or repairing of the same; but no expenditure, for the purpose herein named, greater than can be paid out of the annual revenue of the county for the current year, shall be made, unless the question of such expenditure shall have first been submitted to a vote of the qualified voters of such county, and shall have been approved by a majority of the votes so cast; and the board shall determine the amount and rate of taxes to be submitted to a vote for such purpose.

§ 44. DUTY TO USE BUILDING FUND.] After a building fund has been accumulated either from the proceeds of the sale of town lots, or from any other source, it shall be the duty of the board of county commissioners, within one year from the time such fund becomes available, to proceed to the erection of the necessary county buildings, including a jail, if such fund shall in the judgment of the board be sufficient for that purpose.

§ 45. CONTRACTS LET ONLY ON COMPETITIVE BIDS.] The board shall cause an advertisement for bids for the erection of such buildings, to be

printed in some newspaper published in the county, for at least three months prior to the opening of the bids, and in such other newspaper in the territory and for such period as the board may deem advisable. Such advertisements shall state where the plans and specifications may be examined and the time allowed for the completion of such buildings, and when the bids will be opened and passed upon by the board, which must be at one of the regular sessions of the board, and must be public. The lowest responsible bid must in all cases be accepted, and the contracts for such buildings shall be so conditioned that not more than one-half the payment for the same shall be made until the contract shall be executed and the buildings completed to the satisfaction and acceptance of the board. Said board may further require a bond to accompany each bid, conditioned that the bidder will enter into a contract, with approved security, for the performance of the work in accordance with the plans and specifications, in case his bid is accepted.

§ 46. APPEALS ALLOWED FROM DECISIONS OF BOARD.] From all decisions of the board of commissioners, upon matters properly before them, there shall be allowed an appeal to the district court by any person aggrieved, upon filing a bond with sufficient penalty, and one or more sureties to be approved by the county clerk, conditioned that the appellant will prosecute his or her appeal without delay, and pay all costs that he or she may be adjudged to pay in the said district court; said bonds shall be executed to the county, and may be sued in the name of the county, upon breach of any condition therein.

§ 47. APPEAL IN TWENTY DAYS, ON NOTICE.] Said appeal shall be taken within twenty days after the decision of said board, by serving a written notice on one of the board of county commissioners, and the county clerk shall, upon the filing of the bond, and the payment of his fees, allowed by this chapter, as hereinafter provided, make out a complete transcript of the proceedings of said board, relating to the matter of their decision thereon, and shall deliver the same to the clerk of the district court.

§ 48. FILING OF APPEAL.] Said appeal shall be filed by the first day of the district court next after such appeal, and said cause shall stand for trial at such term.

§ 49. TRIAL DE NOVO ON APPEAL.] All appeals thus taken to the district court shall be docketed as other causes pending therein, and the same shall be heard and determined *de novo*.

§ 50. POWER OF DISTRICT COURT.] The district court may make a final judgment, and cause the same to be executed, or may send the same back to the board, with an order how to proceed, and require said board of county commissioners to comply therewith by mandamus, or attachment as for contempt.

§ 51. OFFICIAL SETTLEMENTS REQUIRED PROMPTLY.] All treasurers, sheriffs, clerks, constables and other officers, chargeable with money belonging to any county, shall render their accounts to, and settle with the county commissioners at the time required by law, and pay into the county treas-

ury any balance which may be due the county, take duplicate receipts therefor, and deposit one of the same with the clerk of the county within five days thereafter.

§ 52. PENALTY FOR NEGLECT TO DELIVER MONEY.] If any person thus chargeable shall neglect or refuse to render true accounts, or settle as aforesaid, the county commissioners shall adjust the accounts of such delinquent, according to the best information they can obtain, and ascertain the balance due the county, and order suit to be brought in the name of the county therefor; and such delinquent shall not be entitled to any commission, and shall forfeit and pay to the county a penalty of twenty per cent. on the amount of funds due the county.

§ 53. COUNTY WARRANTS NOT PAID—INTEREST.] All county orders heretofore drawn, or that may hereafter be drawn, by the proper authorities of any county, shall, after having been presented to the county treasurer of the respective counties, and by him indorsed, “not paid for want of funds in the treasury,” from said date draw interest at the rate of ten per cent. per annum.

§ 54. RECORD OF PROCEEDINGS TO BE PRINTED, OR POSTED.] It shall be the duty of the board of county commissioners of the several counties in this territory, to cause to be published in some newspaper printed in their respective counties, or, in case no newspaper be printed in their respective counties, then to be posted up in three public places in said county, one of which shall be posted up in the office of the county clerk, a full and complete report of all their official proceedings, of each regular and special meeting held; such proceedings to be so published or posted as soon after any meeting of the commissioners as practicable. And the board of county commissioners are hereby authorized to pay for such publication: *Provided*, That such payment shall not exceed the rate of one-half the amount authorized by law for publications of a legal character.

§ 55. COUNTY CLERK REPORTS PROCEEDINGS.] It is hereby made the duty of the county clerk to make out a full and complete report of the proceedings of each regular and special meeting of the board, and to transmit the same to the publisher of the newspaper selected by such board to publish such proceedings, said report to be made out and transmitted by such clerk within one week from the time such proceedings are had. Such clerk shall be allowed by the board a reasonable compensation for such service.

§ 56. PRINTED IN NEXT ISSUE OF PAPER.] It shall be the duty of the publisher of any newspaper selected to publish any proceedings of the board of commissioners of the several counties, to cause any proceedings as aforesaid, received by him from any county clerk, to be published in the issue of his paper next succeeding the time of their reception.

#### OF THE REGISTER OF DEEDS.

§ 57. INSTRUMENTS RECORDED—INDORSEMENTS AND FOOT-NOTES.] The register of deeds shall keep a full and true record, in proper books kept for that



FORM OF SECTIONAL SYSTEM OF NUMERICAL INDEX TO REAL ESTATE.

TOWNSHIP NO. .... RANGE NO. .... SECTION NO. ....

No. of Section.	Quarter Sec.	Part Qr. Sec.	Vol. . . .	Page.	Vol. . . .	Page.	Vol. . . .	Page.	Vol. . . .	Page.	Vol. . . .	Page.	Vol. . . .	Page.
1	NE	ne quarter												
		nw quarter												
		sw quarter												
		se quarter												
	NW	ne quarter												
		nw quarter												
		sw quarter												
		se quarter												
	SW	ne quarter												
		nw quarter												
		sw quarter												
		se quarter												
SE	ne quarter													
	nw quarter													
	sw quarter													
	se quarter													

§ 60. COMPENSATION FOR MAKING INDEX—CERTAIN COUNTIES EXCEPTED.] For the making and preparing of the index to the instruments now of record, the registers of deeds shall be allowed by the county commissioners, and paid out of the county treasury of their respective counties such just sum as shall be reasonable and proper, and for keeping such indexes hereafter they shall receive no compensation beyond their fees now allowed or that may hereafter be allowed for the recording of instruments—the indexing being a part of their duties in recording the instrument: *Provided, however,* That it shall be discretionary with the board of county commissioners of the counties of Union, Bon Homme, Minnehaha, Brookings, Burleigh and Clay, as to whether they will adopt the foregoing provisions relating to a numerical index.

OF THE COUNTY CLERK.

§ 61. REGISTER OF DEEDS IS COUNTY CLERK.] The register of deeds, and his deputies duly appointed, shall be *ex officio* county clerk and deputies thereof respectively; and he shall be liable on his official oath and bond as register of deeds for the due and faithful performance of the duties of county clerk.

§ 62. MUST KEEP RECORD OF BOARD.] The county clerk shall attend the sessions of the board of county commissioners, and keep a true and full record of their proceedings in books to be provided for that purpose.

§ 63. GENERAL DUTIES OF CLERK.] He shall do, perform and transact all county business without any extra or greater compensation than is allowed by law; and shall keep all the books required to be kept by the county commissioners; shall file and preserve in his office all accounts, vouchers and other papers pertaining to the settlement of any and all accounts to which the county shall be a party, copies whereof, certified under the hand and seal of the clerk, shall be admitted as evidence in all courts in this territory.

§ 64. CLERK'S ELECTION DUTIES.] The county clerk shall perform all the duties required of him by law relative to the making out and delivering notices of special and general elections, making abstracts of and canvassing the votes cast at any special and general election, issuing certificates of election to members of the legislative assembly, county and precinct officers, and forwarding the abstracts of votes cast at general or special elections to the secretary of the territory.

#### OF THE SHERIFF.

§ 65. SHERIFF—GENERAL DUTIES.] The sheriff shall keep and preserve the peace within his county, for which purpose he is empowered to call to his aid such persons, or the power of his county, as he may deem necessary. He must also pursue and apprehend all felons; and must execute all writs, warrants, and other process from the district court, or from a justice of the peace, which shall be directed to him by legal authority. He shall attend at the district court, and the sessions of the board of county commissioners, when required by the latter to attend.

§ 66. MUST POST ELECTION NOTICES.] He shall serve or post up all notices he may receive from the county clerk or the board of county commissioners, give notice of special and general elections, and shall keep his office at the county seat.

#### OF THE CORONER.

§ 67. CORONER SUCCEEDS SHERIFF—WHEN.] When there shall be no sheriff or deputy sheriff in any organized county it shall be the duty of the coroner in such county to exercise all the powers and duties of that office until the same shall be filled as provided by law; and when the sheriff shall be committed to jail, or otherwise disqualified, the coroner shall be the keeper of the jail, and perform the duties of sheriff during the continuance thereof. When the sheriff is sued the coroner shall serve the papers on him, and his return on all papers served by him shall have the same credit as the sheriff's return; and he shall receive the same fees as the sheriff for like services.

§ 68. INQUESTS ON DEAD BY UNLAWFUL MEANS.] The coroner shall hold an inquest upon the dead bodies of such persons only as are supposed to have died by unlawful means. When he has notice of the dead body of a person supposed to have died by unlawful means, found or being in his county, he is required to issue his warrant to the sheriff or any constable of his county, requiring him to summon forthwith three electors, having

the qualifications of jurors of the county, to appear before the coroner at a time and place named in the warrant.

§ 69. WARRANT FOR JURORS.] That warrant may be in substance as follows:

TERRITORY OF DAKOTA, }  
 .....County. } ss.

To the sheriff or any constable of said county:—In the name of the people of the territory of Dakota, you are hereby required to summon forthwith three electors, having the qualifications of jurors, of your county, to appear before me at (name the place,) at (name the day and hour, or say forthwith,) then and there to hold an inquest on the dead body of ....., there lying, and find by what means he died.

Witness my hand this..... day of.... 18...

A. B., Coroner of.....county.

§ 70. COMPLETING JURY, AND OATH.] If any juror fails to appear, the coroner shall cause the proper number to be summoned and returned from the bystanders, immediately proceed to empanel them and administer the following oath, in substance:

You do solemnly swear (or affirm) that you will diligently inquire, and true presentment make, when, how and by what means the person whose body here lies dead came to his death, according to your knowledge and the evidence given you.

§ 71. WITNESSES ATTENDANCE—CONTEMPTS.] The coroner may issue subpoenas within his county for witnesses, returnable forthwith, or at such time and place as he shall direct, and witnesses shall be allowed the same fees as in cases before a justice of the peace, and the coroner has the same authority to enforce attendance of witnesses, and to punish them and jurors for contempt in disobeying his process, as a justice of the peace has when his process issues in behalf of the territory.

§ 72. OATH TO WITNESSES.] An oath shall be administered to the witnesses, in substance as follows:

You do solemnly swear that the testimony which you shall give to this inquest concerning the death of the person here lying dead shall be the truth, the whole truth, and nothing but the truth. So help you God.

§ 73. TESTIMONY SUBSCRIBED.] The testimony shall be reduced to writing under the coroner's order, and be subscribed by the witnesses.

§ 74. RETURN BY JURY—FORM.] The jurors having inspected the body, heard the testimony and made all needful inquiries, shall return to the coroner their inquisition in writing, under their hands, in substance as follows, and stating the matters in the following form suggested, as far as found:

TERRITORY OF DAKOTA, }  
 .....County. } ss.

An inquisition holden at.....In.....county, territory aforesaid, on the.....day of.....A. D. 18....before.....coroner of the said county, upon the body of.....(or person unknown) there lying dead, by the jurors whose names are hereto subscribed. The said jurors upon their oaths do say (here state when, how, by what person, means, weapon, or accident, he came to his death, and whether feloniously.)

In testimony whereof, the said jurors have hereunto set their hands, the day and year aforesaid.

(Which shall be attested by the coroner.)

§ 75. CRIMINALS NAME NOT DISCLOSED.] If the inquisition find that a crime has been committed on the deceased, and name the person whom the jury

believe has committed it, the inquest shall not be made public until after the arrest directed in the next section.

§ 76. CORONER MAY ORDER ARREST.] If the person charged be present, the coroner may order his arrest by an officer or any other person present, and shall then make a warrant requiring the officer or other person to take him before a justice of the peace.

§ 77. MAY ISSUE WARRANT.] If the person charged be not present, and the coroner believes he can be taken, the coroner may issue a warrant to the sheriff and constables of the county, requiring them to arrest the person and take him before a justice of the peace.

§ 78. WARRANT RETURNABLE TO JUSTICE.] The warrant of a coroner in the above case shall be of equal authority with that of a justice of the peace, and when the person charged is brought before the justice, the same proceedings shall be had as in other cases under complaint, and he shall be dealt with as a person under a complaint in the usual form in criminal cases.

§ 79. WARRANT TO RECITE VERDICT.] The warrant of the coroner shall recite substantially the transactions before him, and the verdict of the jury of inquest leading to the arrest, and such warrant shall be sufficient foundation for the proceedings of the justice instead of a complaint.

§ 80. RETURN BY CORONER. The coroner shall then return to the district court the inquisition, the written evidence, and a list of the witnesses who testified material matter.

§ 81. DISPOSITION OF BODY; PAYMENT OF EXPENSES.] The coroner shall cause the body of a deceased person which he is called to view, to be delivered to his friends, if any there be; but if not, he shall cause him to be decently buried and the expense to be paid from any property found with his body: or, if there be none, from the county treasury, by certifying an account of the expenses, which, being presented to the board of county commissioners, shall be allowed by them if deemed reasonable, and paid as other claims on the county.

§ 82. WHEN JUSTICE MAY ACT AS CORONER.] When there is no coroner, and in case of his absence or inability to act, any justice of the peace of the same county is authorized to perform the duties of coroner in relation to dead bodies, and in such case he may cause the person charged to be brought before himself by his warrant, and may proceed with him as a justice of the peace.

§ 83. PHYSICIANS MAY BE SUMMONED.] In the above inquisition by a coroner, when he or the jury deem it requisite, he may summon one or more physicians or surgeons to make a scientific examination, and shall allow in such case a reasonable compensation instead of witness fees.

§ 84. DISPOSITION OF PROPERTY ON BODY.] The coroner must, within thirty days after an inquest upon a dead body, deliver to the county treasurer any money or other property which may be found upon the body, unless claimed in the meantime by the legal representatives of the deceased. If he fail to do so, the treasurer may proceed against him for its recovery, by a civil action in the name of the county.

§ 85. TREASURER'S DUTY WITH PROPERTY.] Upon the delivery of money to the treasurer, he must place it to the credit of the county. If it be other property, he must, within thirty days, sell it at public auction, upon reasonable public notice, and must in like manner place the proceeds to the credit of the county.

§ 86. MONEY WHEN AND HOW PAID.] If the money in the treasury be demanded within six years, by the legal representatives of the deceased, the treasurer must pay it to them after deducting the fees and expenses of the coroner and of the county in relation to the matter; or it may be paid at any time thereafter upon the order of the board of county commissioners or supervisors.

§ 87. STATEMENT BY CORONER.] Before auditing and allowing the account of the coroner, the board of county commissioners must require from him a statement in writing of any money or other property found upon persons on whom inquests have been held by him, verified by his oath, to the effect that the statement is true, and that the money or property mentioned in it has been delivered to the legal representatives of the deceased, or to the county treasurer.

#### OF THE ASSESSOR.

§ 88. DUTIES OF ASSESSOR ] The assessor shall perform all and singular the acts and duties which now are or may be hereafter prescribed by law for assessors to perform.

#### OF THE PROBATE COURT AND THE JUDGE THEREOF.

§ 89. PROBATE COURTS—RECORD—SEAL.] There shall be a probate court, held by the judge of the probate court, in each organized county, which shall have the jurisdiction and proceed in the manner provided in the law governing proceedings in probate courts and of guardian and ward. They shall be courts of record, and shall have a seal, and the judge thereof shall also be the clerk of the said court.

§ 90. COURT ALWAYS OPEN—TERMS.] The court shall be always open for the transaction of probate business; and the judge thereof shall especially attend his office and hold terms of the probate court, beginning on the first Mondays of January, March, May, July, September and November of each year, and continuing so long as shall be necessary.

§ 91. OFFICE, FURNITURE, RECORDS.] The judge of the probate court shall keep his office at the county seat in such rooms as the county may provide, and his office shall be kept open at reasonable hours. He shall safely keep all the papers, books and records of his office or relating to any case or business of the probate court, or before him as judge thereof, and receive and pay out according to law any money which, by law, may be payable to him. The county shall provide such tables, desks, cases for books and papers and all necessary books and papers, and books of record and other property or furniture required for the office.

§ 92. JUDGE NOT COUNSEL—WHEN.] A judge of the probate court shall not be counsel or attorney in any civil action for or against any executor,

administrator, guardian, trustee, minor, or other person over whom or whose accounts he has, or by law would have jurisdiction, whether such action relate to the business of the estate or not.

#### OF THE TREASURER.

§ 93. TREASURER'S GENERAL DUTIES.] It shall be the duty of the county treasurer to receive all moneys belonging to the county, from whatever source they may be derived, and other moneys which by law are directed to be paid to him, and all moneys received by him for the use of the county shall be paid by him only on the warrant of the board of county commissioners drawn according to law, and all other moneys shall be paid over by him as provided by law.

§ 94. METHOD AND PUBLICITY OF ACCOUNTS.] He shall be the collector of taxes; shall keep his office at the county seat, and shall attend his office three days in each week. He shall be charged with the amount of all tax lists in his hands for collection, and credited with the amounts collected thereon, and the delinquent list, and shall keep a fair and accurate current account of the moneys by him received, showing the amount thereof, the time when, from whom, and on what account received, in cash, warrants, county or road orders; and if in warrants or orders, their kind, number, or other designation, amounts for which they were drawn, interest due thereon, and the amounts of the receipts thereon indorsed, if any; also of all disbursements by him made, showing the time when, to whom, on what account and the amount paid; and he shall so arrange his books that the amounts received and paid on account of each separate and distinct fund or appropriation, shall be exhibited in separate and distinct columns, or accounts, and so as to show whether the same was received or paid in cash, or warrants or orders, and if either of the latter, their designation and other particulars as above required; and the county treasurer shall at all times exhibit such accounts, when desired, to the territorial, county, or school officers, entitled to receive the same, and shall at any time pay over the balance in his hands to them, upon receiving proper vouchers.

§ 95. BOARD EXAMINES AND SETTLES ACCOUNTS.] The books, accounts and vouchers of the county treasurer, and all moneys, warrants or orders remaining in the treasury, shall at all times be subject to the inspection and examination of the board of county commissioners, and at the regular meetings of the board in January and July of each year, and at such other times as they may direct, he shall settle with them his accounts as treasurer, and for that purpose shall exhibit to them all his books, accounts and moneys, and all vouchers relating to the same, to be audited and allowed, which vouchers shall be retained by them for evidence of his settlement; and if found correct, the accounts shall be so certified; if not, he shall be liable on his bond.

§ 96. TO INSURE COUNTY PROPERTY.] When directed by the board of county commissioners he shall cause to be insured, at the charge of the county, any or all of the public buildings and property belonging to the

same, in the name of himself as treasurer and his successors in office, or otherwise as said board may direct; and in case of the destruction or damage of the buildings or property so insured, such treasurer shall demand and receive the moneys due on account of such insurance, and pay the same into the county treasury, and such moneys shall be applied to the fund for rebuilding or restoring such buildings or property.

## OF THE COUNTY SURVEYOR.

§ 97. SURVEYOR'S GENERAL DUTIES.] The county surveyor shall make, in a good and professional manner, all surveys of land within his county which he may be called upon by the owner thereof, or his representative, or directed by the district or probate courts, or the board of county commissioners, to make; and, also, all lands, tracts or lots owned by the county, and public roads, when so directed by said board; and his surveys shall be held as presumptively correct.

§ 98. RECORD OF NOTES AND PLATS.] He shall transcribe the field notes and plats of such surveys into convenient and substantial record books to be furnished by the county, when the board of commissioners shall deem it advisable, and said records shall be entered in an orderly manner, easy of reference, and shall be delivered to his successor in office. They may be kept in the office of the county clerk, and said record shall be competent evidence in all courts of the facts therein set forth.

§ 99. METHOD OF RE-SURVEY AND SUBDIVISION.] The re-survey and subdivision of lands by all surveyors shall be according to the laws of the United States, and the instructions issued by the officers thereof in charge of the public land surveys, in all respects; and in the subdivision of fractional sections, bounded on any side by a meandered lake or river, or the boundary of any reservation or irregular survey, the subdivision lines running toward and closing upon the same shall be run at courses in all points intermediate and equi-distant, as near as may be, between the like section lines established by the original survey.

§ 100. SWORN CHAINMEN IN DISPUTED CASES.] Whenever the survey made is of lines and monuments in dispute between parties, or by order of the district or probate courts, the chainmen must be disinterested persons, approved and sworn by the surveyor to measure justly and impartially to the best of their skill and ability.

§ 101. FULNESS AND ACCURACY OF NOTES AND PLATS.] The record of the field notes and plats shall show distinctly of what piece of land it is a survey, at whose request it was made, what owners were notified and present, the date of the survey, the names of the chainmen, and that they were approved and sworn by the surveyor, when so required by law. The courses shall be taken according to the true meridian, and the variation of the magnetic needle therefrom, shall be noted, and also whenever any material change therein shall occur.

§ 102. RETRACING LINES TO AVOID ERRORS.] In retracing lines or making any survey, he shall take care to observe and follow the boundaries and

monuments as run and marked by the original survey, but shall not give undue weight to partial and doubtful evidences or appearances of monuments, the recognition of which shall require the presumption of marked errors in the original survey, and he shall note an exact description of such apparent monuments.

§ 103. ASSISTANTS—HOW PAID.] All necessary chainmen and other assistants must be paid for their services by the person for whom the survey is made, unless otherwise specially agreed.

## CHAPTER 22.

### VACANCIES IN OFFICE AND SUPPLYING SAME.

#### RESIGNATIONS.

§1. RESIGNATIONS, TO WHOM MADE.] Resignations may be made as follows:

1. Of all territorial and district officers, to the governor.
2. Of all members of the legislative assembly, to the presiding officer of their branches respectively, when in session; and when not in session, to the governor; and when made to the presiding officer, he shall at once notify the governor thereof.
3. All the officers of the legislative assembly, to the respective branches thereof.
4. Of all elective county officers, to the board of county commissioners, except of county commissioners, which shall be made to the county clerk.
5. Of officers of civil townships, to the board of supervisors of the township, except of members of said board, which shall be to the township clerk; and notice shall forthwith be given by the township clerk to the clerk of the district court of the resignation of all officers whose bonds are filed with that officer.
6. Of all officers holding their office by appointment, to the body, board, court or officer that appointed them.

#### OF VACANCIES.

§ 2. EVENTS CAUSING VACANCIES.] Every office shall become vacant on the happening of either of the following events, before the expiration of the term of such office:

1. The death of the incumbent.
2. His resignation.
3. His removal from office.
4. Failure to qualify as provided by law.
5. His ceasing to be a resident of the territory, district, county, township or precinct in which the duties of his office are to be exercised, or for which he may have been elected.
6. His conviction of any infamous crime, or of any offense involving a violation of his official oath.

7. Whenever a judgment shall be obtained against him for a breach of his official bond.

#### OF REMOVALS.

§ 3. CAUSES FOR REMOVAL OF CERTAIN CLASSES OF OFFICERS.] All elective county, township and precinct officers may be charged, tried and removed from office for either of the causes following:

1. Habitual or willful neglect of duty.
2. Gross partiality.
3. Oppression.
4. Extortion.
5. Corruption.
6. Willful maladministration in office.
7. Habitual drunkenness.
8. For a failure to produce and account for all public funds and property in his hands at any settlement or inspection authorized by law.

§ 4. WHO MAY BRING ACTION.] The board of county commissioners in the name of the county or any person in his own name may make such a charge and bring the action, and the district court shall have exclusive original jurisdiction thereof. The proceedings shall be as provided in the codes of civil and criminal procedure.

§ 5. COURT MAY SUSPEND OFFICER.] If the cause be continued, the court may suspend the accused from the functions of his office until the determination of the matter, if sufficient cause appear from testimony or affidavits then presented; and if such suspension take place, the board of county commissioners shall temporarily fill the office by appointment.

§ 6. QUESTION TRIED AS IN OTHER ACTIONS.] The question of fact shall be tried as in other actions, and if the accused is found guilty, judgment shall be entered removing the officer from his office, and declaring the latter vacant, or as provided for in the code of criminal procedure; and a copy thereof shall be certified to the board of county commissioners, and the county clerk shall enter the same upon the proper record.

§ 7. PROPERTY DELIVERED TO SUCCESSOR.] Upon the death, resignation, suspension or removal from office of any officer, all books and papers belonging to his office, and all moneys in his hands, and all property of whatever kind, held by him by virtue of his office, shall be delivered to his successor.

#### OF FILLING VACANCIES.

§ 8. VACANCIES FILLED BY APPOINTMENT.] All vacancies, except in the offices of members of the legislative assembly, shall be filled by appointment, as follows:

1. In the territorial and district officers, by the governor.
2. In county and precinct officers, by the board of county commissioners, except vacancies in said board.
3. In officers of civil townships, by the justices of the peace of the town-

ship together with the board of supervisors, or a majority of them, by warrant under their hands; and if a vacancy occurs from any cause in the foregoing board of appointment, the remaining officers of such board shall fill any vacancy therein.

§ 9. FILLING VACANCY IN COUNTY BOARD.] When a vacancy occurs in the board of county commissioners, it shall be the duty of the remaining member or members of said board, with the judge of the probate court and county clerk, to immediately appoint some suitable person to fill such vacancy from the district where the vacancy occurs.

§ 10. BRIEF VACANCIES NOT TO BE FILLED.] If a vacancy occurs thirty days previous to an election day at which it may be filled, no appointment shall be made unless it be necessary to carry out said election, and the canvass of the same according to law; in that case an appointment may be made at any time previous to said election, to hold until after said election, or until his successor is elected and qualified.

§ 11. APPOINTMENTS IN WRITING—TERM.] Appointments under the provisions of this act shall be made in writing, and made to continue until the next general election, at which the vacancy can be filled, and until a successor is elected and qualified, to be filed with the secretary of the territory, or in the proper county offices respectively.

§ 12. APPOINTEES—HOW QUALIFIED.] Persons appointed to offices as herein provided, shall qualify in the same manner as is required of those elected, the time of which shall be prescribed in their appointment.

## CHAPTER 23.

### CIVIL TOWNSHIPS.

#### ORGANIZATION OF CIVIL TOWNSHIPS.

§ 1. TOWNSHIP ORGANIZATION ADOPTED BY VOTE OF COUNTY.] Whenever the county commissioners of any county shall deem it expedient they may submit, at a special election called for that purpose, at least sixty days before any general election, the question whether the system of township government as hereinafter provided, shall be adopted in said county, and at such special election there shall be written or printed on the ballots the words, "For township organization," or, "Against township organization."

§ 2. WHOLE COUNTY DIVIDED BY COMMISSIONERS.] If a majority of votes cast at such election shall be in favor of township organization, the board of county commissioners shall immediately proceed to divide the county into civil townships, fix and determine the boundaries thereof, and number the same, and in so doing shall have regard to natural boundaries and topography, and may at any time thereafter alter and change the same: *Provided*, That the number of civil townships shall not exceed the number of congressional townships, or fractional parts thereof greater than one half, in any county.

§ 3. SELECTION OF TOWNSHIP NAMES.] At the first township meeting, which shall be on the day of the next general election, held under the provisions of this chapter, the electors of each township shall choose by ballot a name for their respective townships to be substituted in lieu of the number fixed by the board, which shall be recognized by the board, and entered upon their records, after which such township shall be known and designated in law by the name so selected, and should the electors of any township fail to choose a name, as provided, the board shall select one and so record it.

§ 4. COUNTY CLERK REPORTS PLATS AND NAMES.] The county clerk shall, within thirty days after the first township elections held under the provisions of this chapter, transmit to the territorial auditor a plat of the county showing the boundaries and name of each civil township therein, and shall record a copy of the same, together with all the acts and proceedings done or had hereunder, in a book to be kept for that purpose.

§ 5. AUDITOR TO RETURN DUPLICATE NAMES.] If the auditor, on comparing the report with those previously made from other counties, finds that any

two or more townships have the same name, he shall transmit to the county last adopting the township organization the name of the township to be altered, and the board of county commissioners shall at their next meeting thereafter adopt for such township some name different from those theretofore adopted, so that no two townships organized under the provisions of this chapter shall have the same name, and when such name is adopted the county clerk shall inform the auditor thereof, as before directed, and note the same in the county record.

§ 6. **PRESENT TOWNSHIPS REMAIN.]** The limits, boundaries and organization of every organized township shall remain as now established until otherwise provided by the board of county commissioners as provided by law, and in any county hereafter organized into civil townships under the provisions of this chapter there shall be elected no county justices of the peace, constables or assessor, and all provisions of law relating to county government in conflict with the provisions of this chapter, shall not apply to each county.

OF THE CORPORATE POWERS OF CIVIL TOWNSHIPS.

§ 7. **TOWNSHIP BODY CORPORATE—POWERS.]** Each civil township is a body corporate for civil and political purposes only, and as such has power and capacity:

1. To sue and be sued.
2. To purchase and hold lands within its own limits, and for the public use of its own inhabitants, subject to the powers of the legislative assembly.
3. To make such contracts, purchase and hold such personal property as may be necessary for the exercise of its corporate or administrative powers.
4. To make such orders for the disposition, regulation or use of its corporate property as may be deemed conducive to the interests of its own inhabitants.

§ 8. **POWERS LIMITED TO THOSE GRANTED.]** No civil township shall possess or exercise any corporate powers except such as are enumerated in this chapter, or are especially given by law, or necessary to the exercise of the powers so enumerated or granted.

§ 9. **TOWNSHIP ACTS BY NAME.]** All acts or proceedings by or against a township in its corporate capacity shall be in the name of such township, but every conveyance of lands within the limits of such township made in any manner for the use and benefit of its inhabitants has the same effect as if made to the township by name.

POWERS OF ELECTORS.

§ 10. **ELECTORS HAVE POWER OVER POUNDS, OFFICERS, ACTIONS, TAXES, RULES, PENALTIES AND ROADS.]** The electors of each township shall have power at their annual township meeting:

1. To determine the number of pound masters, and the location of pounds.
2. To elect such township officers as are required to be chosen.
3. To direct the institution or defense of actions in all controversies where such township is interested.
4. To direct such sums to be raised in such township for prosecuting or defending such actions as they may deem necessary.
5. To make rules and regulations for impounding animals in such townships.
6. To impose such penalties on persons offending against any rule or regulation established by said townships, as they may think proper, not exceeding ten dollars for each offense, unless herein otherwise provided.
7. To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the township.
8. To vote to raise such sums of money for the repair and construction of roads and bridges, for the support of the poor, and for other necessary township charges, as they deem expedient ; *Provided*, That they may, at their annual township meeting, direct such an amount of the poll and road tax of the township to be expended on the highways of an adjoining township as they deem conducive to the interests of the township ; which labor and tax shall be expended under the direction of the supervisors of the township furnishing the same.

#### OF TOWNSHIP MEETINGS.

§ 11. TOWNSHIP MEETING ANNUAL.] The citizens of the several townships qualified to vote at general elections shall annually assemble and hold township meetings in their respective townships, on the day and at the place designated for holding the general election, and at such hour as the electors thereof at their annual township meetings, from time to time may appoint.

§ 12. SPECIAL MEETING—HOW CALLED.] Special township meetings may be held for the purpose of transacting any lawful business whenever the supervisors, township clerk and justices of the peace, or any two of them, together with at least twelve other freeholders of the township, file in the office of the township clerk a written statement that a special meeting is necessary to the interests of the township.

§ 13. TOWNSHIP CLERK GIVES NOTICE.] Every township clerk with whom such statement is filed, as required in the preceding section, shall record the same, and immediately cause notices to be posted up in five of the most public places in the township, giving at least five days notice of such special meeting ; and if there be a newspaper printed in said township he shall cause a copy of said notice to be published therein at least three days before the time appointed for such meeting.

§ 14. WHAT NOTICE SPECIFIES.] Every such notice shall specify the purpose for which the meeting is to be held, and no other business shall be transacted at such special meeting than is specified in such notice.

§ 15. MEETINGS BETWEEN 9 AND 10 A. M.—HOW ORGANIZED.] The electors present at any time between nine and ten o'clock in the forenoon of the day of the annual or special township meeting, or at the hour appointed by the electors of the township at a former township meeting, shall be called to order by the township clerk, if he be present; in case he is not present, then the voters may elect, by acclamation, one of their number chairman. They shall then proceed to choose one of their number to preside as moderator of such meeting. The township clerk last before elected shall be clerk of the meeting, and keep faithful minutes of the proceedings, in which he shall enter, at length, every order or direction, and all rules and regulations, made by such meeting. If the township clerk is absent, then such person as shall be elected for that purpose, shall act as clerk of the meeting.

§ 16. ORDER OF BUSINESS BEFORE MEETING.] At the opening of every township meeting, the moderator shall state the business to be transacted, and the order in which it shall be entertained, and no proposition to vote a tax shall be acted on out of the order of business as stated by the moderator, and no proposition to reconsider any vote shall be entertained at any township meeting, unless such proposition to reconsider is made within one hour from the time such vote was passed, or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the poll list at the election up to the time such motion is made; and all questions upon motions made at town meetings shall be determined by a majority of the electors voting; and the moderator shall ascertain and declare the result of the votes on each question.

§ 17. QUALIFICATION OF VOTERS.] No person is a voter at a township meeting unless he is qualified to vote at the general election.

§ 18. MINUTES SIGNED BY CLERK AND MODERATOR.] The minutes of the proceedings of every township meeting shall be subscribed by the clerk and moderator of said meeting, and shall be filed in the office of the township clerk within two days after such township meeting.

#### TOWNSHIP OFFICERS TO BE ELECTED.

§ 19. OFFICERS OF TOWNSHIPS ELECTED.] There shall be elected by ballot for each township, three supervisors, one of whom shall be designated on the ballots as chairman, one clerk, one treasurer, one assessor, two justices of the peace and two constables, who shall hold their offices for the term of one year, and until their successors are qualified, except justices of the peace and constables who shall hold their offices for two years.

§ 20. HOW AND WHEN CHOSEN.] The officers to be elected by ballot shall be voted for and named upon the same ballot with county, district and territorial officers at the general election. All other officers, if not otherwise provided, shall be chosen either by yeas and nays, or by a division as the electors may determine.

§ 21. RETURN OF VOTES.] When the votes cast at the general election shall have been canvassed and the number received by each person voted for, for each office, counted and ascertained, as provided in the general election law, the election board shall, in addition to the return to the county clerk therein provided, make a separate return in like manner and form to the township clerk of the persons voted for, and the votes for each person cast for each township office.

§ 22. CANVASS OF VOTES.] The clerk of every township shall, within twenty days after each election, taking to his assistance the chairman of the township board and one justice of the peace, or these failing, any other two elective township officers, proceed to canvass said returns and make an abstract thereof, which shall be signed by the officers making the same which shall be filed in the township records by the clerk.

§ 23. TIE VOTE DETERMINED.] In case of a tie vote for any office it shall be determined by the township clerk in the same manner as provided for county officers.

§ 24. NOTICE TO ELECTED OFFICERS.] The township clerk shall within ten days after the canvass of the votes and the determination of the persons elected, transmit to each person elected to any township office, a notice of his election.

§ 25. OTHER OFFICERS CHOSEN.] There shall also be chosen by the electors at each annual township meeting one overseer of highways, and one pound master, who shall hold office for the term of one year or until their successors are elected and qualified.

§ 26. QUALIFICATION OF SUCH OFFICERS.] They shall qualify by oath of office in writing to be filed with the township clerk, and within the period required for other civil officers. Said oath shall be taken before the township clerk or justice of the peace, without fee, and certified by the officer before whom it was taken, with the date of taking the same.

§ 27. SUPERVISORS ARE JUDGES OF ELECTION.] The township supervisors of each township shall be the judges of election, and if there shall be any vacancy in said board of judges, the electors present shall choose *vice vacce* from the qualified electors of said township, so many judges as there shall be vacancies in such board.

§ 28. CLERKS OF ELECTION.] The township clerk shall be clerk of elections, and the board of judges shall have power to appoint one of the qualified electors of such township to act as the other clerk of election.

§ 29. JUDGES AND CLERKS APPOINTED SHALL TAKE OATH.] Any person chosen as prescribed in the preceding sections to fill any vacancies in the office of judges or clerks of election, shall, before they enter upon the duties of their office take and subscribe to the oath required of them by law. Said oath shall be taken before the justice of the peace or any other officer authorized by law to administer oaths, without fee, and certified by the officer before whom it was taken, with the date of taking the same.

#### MISCELLANEOUS PROVISIONS.

§ 30. CERTIFICATE TO ACTS OF JUSTICE OF PEACE—HIS RESPONSIBILITY.] The oath and bond of a justice of the peace filed in the office of the clerk

of the district court for the county or judicial subdivision are sufficient authority for said clerk to certify to the official acts and signature of such justice of the peace; and any person aggrieved by the acts of any such justice of the peace may maintain an action on said bond in his own name against said justice and his sureties.

§ 31. PENALTY FOR REFUSAL TO SERVE.] If any township officer, who is required by law to take an oath of office, enters upon the duties of his office before taking such oath, he forfeits to such township the sum of fifty dollars.

POWERS OF BOARD OF SUPERVISORS.

§ 32. POWERS OF TOWNSHIP SUPERVISORS.] The board of supervisors shall have charge of such affairs of the township as are not by law committed to other township officers; and they shall have power to draw warrants on the township for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the township, and for all other moneys raised by the township to be disbursed for any other purpose.

§ 33. POWER OF TOWNSHIP OVER VILLAGE STREETS.] Whenever any incorporated town which is laid out into streets is included within the limits of an organized township, the township supervisors are authorized to cause improvements to be made in any street that may be needed as a highway, if the corporate authorities of such town neglect to make such improvements.

§ 34. SUPERVISORS MAY MAINTAIN ACTIONS FOR PENALTIES, ETC.] The board of supervisors of any township shall, by their name of office, prosecute, for the benefit of the township, all actions upon bond given to them or their predecessors in office; and shall also sue for and collect all penalties, fines and forfeitures in respect to which no other provision is made, incurred by any officer or inhabitant of the township, or any other person; and they shall have power, in like manner, to prosecute for any trespass committed upon any public enclosure or other property belonging to the township, and shall pay all moneys collected under this section to the township treasurer.

§ 35. TWO SUPERVISORS A QUORUM.] Any two of the supervisors constitute a quorum for the performance of any duty required by law of the township supervisors, except when otherwise provided: *Provided*, That when the board of supervisors are equally divided upon any question they shall defer a decision thereof until a meeting of the full board, and then the question shall be decided by a majority vote of the board.

§ 36. POLICE POWER IN VILLAGES NOT INCORPORATED.] Any organized township containing any village not incorporated may enact such regulations as may be necessary to restrain all disorderly conduct within the village arising from drunkenness or otherwise.

§ 37. OFFENSES—HOW PUNISHED.] Any person deemed guilty of such disorderly conduct shall, on complaint of any person aggrieved, be examined before any justice of the peace of such township, and upon con-

viction thereof be fined in the sum of not less than two nor more than ten dollars, and all costs arising from such complaint and trial, without process first issuing.

§ 38. CONSTABLE MAY ARREST.] Any constable in any such township shall be a proper officer for arresting and detaining such offending person.

§ 39. TOWNSHIP MAY PROVIDE FOR CONFINEMENT OF PRISONERS.] Any township with any such village not incorporated, shall at the annual township meeting have power to vote any appropriations necessary for providing such place of confinement, and shall further add to any such regulations necessary for carrying this into effect.

§ 40. NOTICE THEREOF TO BE GIVEN.] Any township providing such place of confinement shall cause notice of the same to be published in the newspaper having the largest circulation in such township, if there be any, or cause the township clerk to post notice thereof in three of the most public places in said township.

§ 41. CONVICTED PERSONS CONFINED.] Any person convicted under the preceding sections shall be confined in the calaboose until all fines and costs are paid, not less than one day, nor more than ten days.

§ 42. TOWNSHIP EXEMPT FROM ROAD AND BRIDGE TAX.] All townships organized under the provisions of this act shall be exempt from the payment of a general county tax for road or bridge purposes, and the supervisors of such township shall levy such tax as they may deem necessary, not exceeding one per cent. of the assessed valuation of such township, to lay out and keep in repair the highways and bridges therein.

#### TOWNSHIP AUDITING BOARD.

§ 43. SUPERVISORS ARE AUDITING BOARD.] The supervisors shall constitute a township board for the purpose of auditing all accounts payable by said township; and, if, from any cause, there be not three supervisors present, to constitute said board, the chairman, and in his absence, either of the other supervisors, may notify any one, or so many of the justices of the said township, as will, together with the supervisors present, make a board of three; and the board so constituted shall have authority to act as the township auditing board.

§ 44. TIME FOR MEETINGS OF BOARD.] The township board shall meet annually on the Tuesday next preceding the annual township meeting, and at such other times as they deem necessary and expedient, for the purpose of auditing and settling all charges against said township; and they shall state on each account the amount allowed by them; but no allowance shall be made upon any account which does not specifically state each item of the same, and the nature thereof.

§ 45. BOARD TO EXAMINE TREASURERS ACCOUNTS.] The said board shall also at their annual meeting in each year, examine and audit the accounts of the township treasurer for all moneys received and disbursed by him as such officer; and they shall audit the accounts of all other township officers who are authorized by law to receive or disburse any money of the township by virtue of their office.

§ 46. BOARD TO MAKE REPORT.] Such board shall draw up a report, stating in detail the items of account audited and allowed, the nature of each account, and the name of the person to whom such account was allowed, including a statement of the fiscal concerns of the township, and an estimate of the sum necessary for the current expenses thereof, and other incidental expenses for the ensuing year.

§ 47. REPORT TO BE READ, WHEN.] Such report shall be produced and publicly read by the township clerk at the next ensuing township meeting, and the whole or any portion of such report may be referred, by the order of the meeting, to a committee, whose duty it shall be to examine the same and report thereon to such meeting.

§ 48. TOWN TREASURER TO PAY ACCOUNTS.] The amount of any account audited and allowed by the township board, and the amount of any account voted to be allowed at any township meeting, shall be paid by the township treasurer, on the order of said board, signed by the chairman and countersigned by the clerk; and all orders issued to any person by the township board for any sums due from such township, shall be receivable in payment of township taxes of said township.

#### TOWNSHIP BOARD OF HEALTH.

§ 49. BOARD OF HEALTH ] The township supervisors shall constitute a board of health, and within their respective townships shall have and exercise all the powers necessary for the preservation of the public health.

§ 50. POWERS AND DUTIES OF BOARD OF HEALTH.] The board of health may examine into all nuisances, sources of filth and causes of sickness, and make such regulations respecting the same as they may judge necessary for the public health and safety of the inhabitants; and every person who shall violate any order or regulation made by any board of health, and duly published, shall be deemed guilty of misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding twenty days.

§ 51. BOARD OF HEALTH TO GIVE CERTAIN NOTICES.] Notice shall be given by the board of health of all orders and regulations made by them, by publishing the same in some newspaper, if there is one published in such township; if there is none, then by posting up such notice in five public places therein; and such publication of said orders and regulations shall be deemed a legal notice to all persons.

§ 52. NUISANCES TO BE REMOVED BY, WHOM ] Whenever any nuisance, source of filth, or cause of sickness, is found on private property, the board of health shall order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours; and if the owner or occupant neglects so to do, he shall forfeit a sum not exceeding fifty dollars, to be recovered in the name of and for the use of the township.

§ 53. OWNER LIABLE FOR EXPENSES.] Whenever such owner or occupant shall not comply with such order of the board of health, said board may cause the said nuisance, source of filth, or cause of sickness, to be removed, and all expenses incurred thereby shall be paid by the said

owner or occupant, or by such other person as has caused or permitted the same.

§ 54. BOARD OF HEALTH MAY ENTER BUILDING OR VESSEL.] Whenever the board of health thinks it necessary for the preservation of the health of the inhabitants, to enter any building or vessel in their town, for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth, or cause of sickness, and shall be refused such entry, any member of the board may make complaint under oath to a justice of the peace of his township, stating the facts in the case so far as he has knowledge thereof.

§ 55. WHO MAY ISSUE WARRANT TO REMOVE NUISANCE.] Such justice shall thereupon issue a warrant, directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and being accompanied by two or more of the board of health, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same destroy, remove, or prevent, under the direction of the members of such board of health.

§ 56. DISPOSITION OF PERSONS WITH SMALL POX, ETC.] When any person coming from abroad, or residing in any township within this territory, is infected, or lately has been infected, with the small pox or other contagious disease, dangerous to the public health, the board of health of the township where such sick or infected person is, may immediately cause him to be removed to a separate house, if it can be done without danger to his health, and shall provide for him nurses and necessaries, which shall be at the charge of the person, his parents, guardian, or master, if able, otherwise at the charge of the township to which he belongs; and if he is not an inhabitant of any township, at the charge of the county.

§ 57. DISPOSITION OF PERSONS WITH SMALL POX, ETC.] If such infected person cannot be removed without danger to his health, the board of health shall make provision, as directed in the preceding section, for such person, in the house where he may be; and in such case, they may cause the persons in the neighborhood to be removed, and may take such other measures as they may deem necessary for the safety of the inhabitants.

§ 58. WHEN BOARD MAY ESTABLISH HOSPITAL.] When a disease dangerous to the public health breaks out in any town, the board shall immediately provide such hospital or place of reception for the sick and infected as is judged best for their accommodation and the safety of the inhabitants, which shall be subject to the regulations of the board; and the board may cause any sick and infected person to be removed thereto, unless his condition will not admit of such removal without danger to his health, in which case the house or place where he remains shall be considered as a hospital, and, with all its inmates, subject to the regulations of the board.

OF THE TOWNSHIP CLERK.

§ 59. TOWNSHIP CLERK CUSTODIAN OF RECORDS.] The township clerk shall have the custody of records, books and papers of the township when no other provision is made by law; and he shall duly file and safely keep

all certificates of oaths and other papers required by law to be filed in his office.

§ 60. DUTY OF CLERK TO KEEP RECORD.] He shall record in the book of records of his township minutes of the proceedings of every township meeting, and he shall enter therein every order or direction, and all rules and regulations of any such township meeting; and shall also file and preserve all accounts audited by the township board, or allowed at a township meeting, and enter a statement thereof in such book of records.

§ 61. TOWNSHIP CLERK TO GIVE BONDS.] Every person elected or appointed to the office of township clerk in any of the townships of this territory, shall, before he enters upon the duties of his office, and within the time prescribed by law for filing his oath of office, execute a bond, with two or more sufficient sureties, to be approved by the township treasurer, in such penal sum as the supervisors direct, conditioned for the faithful discharge of his duties. Said bond so approved shall be filed in the office of the county clerk for the benefit of any person aggrieved by the acts or omissions of said township clerk, and any person so aggrieved, or the township, may maintain an action on said bond against said township clerk and sureties.

§ 62. TOWNSHIP CLERK TO NOTIFY COUNTY CLERK OF ELECTION.] Every township clerk, immediately after the qualification of any constable, elected or appointed in his township, shall transmit to the county clerk the name of such constable.

§ 63. TOWNSHIP CLERK TO NOTIFY COUNTY CLERK OF ELECTION.] Each township clerk shall, immediately after the election of any justice of the peace in his township, transmit a written notice thereof to the county clerk, stating therein the name of the person elected, and the term for which he is elected; and, if elected to fill a vacancy, he shall state in said notice who was the last incumbent of the office.

§ 64. PENALTY FOR NEGLECT.] If any township clerk willfully neglects to make such return, such omission is hereby declared a misdemeanor, and on conviction thereof, the person so offending shall be adjudged to pay a fine not exceeding ten dollars.

§ 65. CLERK TO NOTIFY COUNTY CLERK OF TAXES LEVIED.] The township clerk shall be the clerk of the township board, and shall keep a true record of all their proceedings in his office, and it shall be his duty to forward to the county clerk, on or before the first Monday in July of each year, the rate per cent of all taxes voted by the township, and the county clerk shall then extend the tax according to such rate per cent on the tax books, and the same when so extended shall be collected as other taxes and credited to the proper township.

§ 66. TOWN TREASURER TO COLLECT AND PAY MONEY.] The township treasurer shall receive and take charge of all moneys belonging to the township or which are by law required to be paid into the township treasury, and shall pay over and account for the same upon the order of such township or the officers thereof, duly authorized in that behalf, made pur-

suant to law, and shall perform all such duties as may be required of him by law.

§ 67. METHOD AND PUBLICITY OF ACCOUNTS.] Every township treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided at the expense of the township for that purpose, and exhibit such account, together with his vouchers, to the township board at its annual meeting, for adjustment; and he shall deliver all books and property belonging to his office, the balance of all moneys in his hands as such treasurer, to his successor in office, on demand, after such successor has qualified according to law.

§ 68. TO RECEIVE AND RECEIPT FOR MONYES.] The township treasurer shall from time to time draw from the county treasurer such moneys as have been received by the county treasurer for the use of his township, and on receipt of such moneys shall deliver proper vouchers therefor. Each township treasurer shall be allowed and entitled to retain two per centum of all moneys paid into the township treasury, for receiving, safe keeping, and paying over the same according to law.

§ 69. ANNUAL REPORT OF TREASURER IN DETAIL.] Each township treasurer, shall make out and present to the township board on the Tuesday next preceding the annual township meeting, a statement in writing of the moneys by him received into the township treasury from the county treasurer, and from all other officers and persons, and also of all moneys paid out by him as such treasurer, in which statement he shall set forth particularly from whom and on what account such moneys were received by him, with the amount received from each officer or person, and the date of receiving the same, also to whom and for what purpose any moneys have been paid out by him, with the amount and date of each payment. He shall also state therein the amount of moneys remaining in his hands as treasurer. Such statement shall be filed by him in the office of the township clerk, and shall be by such clerk carefully preserved and recorded in the township book of records.

§ 70. PENALTY FOR NEGLECT.] Every township treasurer who refuses or neglects to comply with the provisions of the four preceding sections, shall forfeit not more than two thousand dollars, to be recovered in any court of competent jurisdiction, the amount to be fixed by the jury trying the cause, or by the court, if there is no jury empanelled, and may be recovered by civil action, in the name of the person who prosecutes the same, with costs of suit; one half shall go to the person so prosecuting, and the remainder to the township of which said delinquent is or has been treasurer.

#### COMPENSATION OF TOWNSHIP OFFICERS.

§ 71. WHAT OFFICERS ARE ENTITLED TO COMPENSATION AND AMOUNT OF FEES.] The following township officers are entitled to compensation at the following rates for each day necessarily devoted by them to the service of the township, in the duties of their respective offices. The township as-

sessors shall receive for their services two dollars per day, while engaged in their respective duties as such assessors. The township clerk and supervisors shall receive for their services one dollar and fifty cents per day, when attending to business in their township, and two dollars when attending to business out of township; no township supervisor shall receive more than twenty dollars, for compensation, in any one year: *Provided*, That the township clerk shall be paid fees for the following, and not a per diem: For serving notices of election upon township officers, as required by law, twenty-five cents each; for filing any paper required by law to be filed in his office, ten cents each; for posting up notice required by law, twenty-five cents each; for recording any order or any instrument of writing authorized by law, six cents for each one hundred words; for copying any record or instrument on file in his office, and certifying the same, six cents for each one hundred words, to be paid for by the person applying for the same: *Provided further*, That at any township meeting, before the electors commence balloting for officers, they may by resolution reduce or increase the compensation of officers, but no such increase shall exceed one hundred per cent.

§ 72. DUTIES AND FEES OF POUND MASTER AND DISPOSITION OF IMPOUNDED ANIMALS.] The pound master is allowed the following fees, to-wit: For taking into pound, and discharging therefrom, any horse, ass or mule, and all neat cattle, ten cents each. For every sheep or lamb, three cents each; and for every hog, large or small, five cents; and twenty cents for keeping each head twenty-four hours in pound. And the pound master has a lien on all such animals, for the full amount of his legal charges and expenses, and shall be entitled to the possession of such animals until the same are paid; and if the same are not paid and said animals removed within four days after they are so impounded, the said pound master shall give notice, by posting the same in three of the most public places in said township, that said animals (describing them,) are impounded, and that unless the same are taken away and fees paid, within fifteen days after the date of such notice, he will sell the same at public vendue, at the place where the township meetings of said township are usually held, and on the day designated in such notice, the said pound master shall expose the said animals for sale, and sell the same to the highest bidder in cash, for which services he shall receive two per cent. of the purchase money for each animal. Out of the moneys realized from said sale, the said pound master shall deduct all his legal fees and charges, and pay the balance, if any, to the chairman of the board of township supervisors, at the same time giving to said supervisors, an accurate description of the animals sold, and the amount received by him for each animal, and shall take a receipt and duplicate therefor, and file one of them with the township clerk; *Provided*, That the said supervisors shall at any time within six months, upon sufficient proof from the owner of any animal so sold, pay to said owner the balance due as received from the said pound master; but if said money is not claimed within that time, then the sum so received shall be retained for the use of said township.

## ACTIONS BY AND AGAINST TOWNSHIPS.

§ 73. ACTION AGAINST TOWNSHIP, HOW BEGUN AND DEFENDED.] In legal proceedings against a township by name, all papers shall be served on the chairman of the board of supervisors, and in case of his absence, on the township clerk; and whenever any action or proceeding is commenced, said chairman shall attend to the defense thereof, and lay before the electors of the township at the first township meeting, a full statement of such proceedings, for their direction in regard to the defense thereof.

§ 74. TOWNSHIP JUSTICE NO JURISDICTION.] No action in favor of any township shall be brought before any justice of the peace residing in such township.

§ 75. DAMAGES IN LIEU OF PENALTY.] Whenever any action is brought to recover a penalty imposed for any trespass committed on the lands belonging to the township, if it appears on the trial thereof that the actual amount of injury to such township lands, in consequence of such trespass, exceeds the sum of twelve dollars and fifty cents, then the amount of actual damage, with cost of suit, shall be recovered in said action instead of any penalty for said trespass imposed by the township meeting, and such recovery shall be used as a bar to every other action for the same trespass.

§ 76. PARTITION OF TOWNSHIP LANDS.] Whenever, by decree or decision in any action or proceeding brought to settle any controversy in relation to township commons or other lands, the common property of a township, or for the partition thereof, the rights of any township are settled and confirmed, the court in which such proceedings are had may partition such lands according to the right of parties.

§ 77. TREASURER TO PAY JUDGMENTS WHEN NOT APPEALED.] When a judgment is recovered against any township, or against any township officers, in an action prosecuted by or against them in their name of office, no execution shall be awarded or issued upon such judgment, but the same, unless reversed or stayed on appeal, shall be paid by the township treasurer upon demand, and the delivery to him of the certified copy of the docket of the judgment, if there is sufficient money of such township in his hands not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection thereof is afterwards stayed upon appeal.

§ 78. JUDGMENT PAID BY SPECIAL TAX, OR EXECUTION ISSUE.] If judgment for the recovery of money is rendered against any township, and the judgment is not satisfied, or proceedings thereon stayed by appeal or otherwise, before the next annual meeting of said township, a certified copy of the docket of the judgment may be presented to said township at said annual meeting. The supervisors of the township shall thereupon cause the amount due on the judgment, with interest from the date of its recovery, to be levied as a special tax; and upon their failure to do so, execution may issue against the township property.

## OF GUIDE POSTS.

§ 79. (GUIDE POSTS.) Every township shall, in the manner provided herein, erect and maintain guide posts on the highways and other ways within the township, at such places as are necessary or convenient for the direction of travelers.

§ 80. SUPERVISORS REPORT LOCATION OF GUIDE POSTS.] The board of supervisors shall submit to the electors, at every annual meeting, a report of all the places at which guide posts are erected and maintained within the township, and of all places at which, in their opinion, they ought to be erected and maintained. For each neglect or refusal to make such report, they shall severally forfeit the sum of ten dollars.

§ 81. TOWNSHIP TO DIRECT WHERE POSTS TO BE ERECTED.] Upon the report of the supervisors, the township shall determine the several places at which guide posts shall be erected and maintained, which shall be recorded in the township records. A township which neglects or refuses to determine such places and to cause a record thereof to be made, shall forfeit the sum of five dollars for every month during which it neglects or refuses so to do; and in such case, upon any trial for not erecting or maintaining guide posts reported to be necessary or convenient, by the supervisors, the township shall be estopped from alleging that such guide posts were not necessary or convenient.

§ 82. STYLE OF GUIDE POST.] At each of the places determined by the township, there shall be erected a substantial post of not less than eight feet in height, near the upper end of which shall be placed a board, and upon such board shall be plainly and legibly painted, or otherwise marked, the name of the next town or place, and such other town or place of note as the supervisors think proper, to which each of such roads lead, together with the distance or number of miles to the same; and also the figure of a hand, with the forefinger thereof pointed towards the towns or places to which said road leads; *Provided*, That the inhabitants of any town may, at their annual meeting, agree upon some suitable substitute for such guide post.

## MISCELLANEOUS PROVISIONS.

§ 83. POUNDS IN CHARGE OF MASTER.] Whenever the electors of any township determine at their annual meeting to erect one or more pounds therein, the same shall be under the care and direction of such pound masters as are chosen or appointed for that purpose.

§ 84. ELECTORS MAY DISCONTINUE POUNDS.] The electors of any township may, at any annual township meeting, discontinue any pounds therein.

§ 85. TOWNSHIP CHARGES—LIMITATION OF TAX.] The following shall be deemed township charges :

1. The compensation of township officers for services rendered their respective townships.
2. Contingent expenses necessarily incurred for the use and benefit of the township.

3. The moneys authorized to be raised by the vote of the township meeting for any township purpose.

4. Every sum directed by law to be raised for any township purpose: *Provided*, That no tax for township purposes shall exceed the amount voted to be raised at the annual township meeting as provided in subdivision eight, section fifteen, aforesaid.

§ 86. LEVY OF TAXES.] The moneys necessary to defray the township charges of each township shall be levied on the taxable property in such township, in the manner prescribed in the chapter for raising revenue and other money for territorial and county purposes and expenses.

§ 87. OFFICERS TO DEMAND PROPERTY OF PREDECESSORS.] Whenever the term of any supervisor, township clerk or assessor expires, and another person is appointed or elected to such office, such successor, immediately after he enters on the duties of his office, shall demand of his predecessor all books and papers under his control belonging to such office.

§ 88. SAME IN CASE OF VACANCY.] Whenever either of the officers above named resigns, or the office becomes vacant in any way, and another person is elected or appointed in his stead, the person so selected shall make such demand of his predecessor, or of any person having charge of such books and papers.

§ 89. PROPERTY TO BE DELIVERED ON OATH.] Every person so going out of office, whenever thereto required, pursuant to the foregoing provisions, shall deliver, upon oath, all records, books and papers in his possession, or in his control, belonging to the office held by him, which oath may be administered by the officer to whom such delivery is made.

§ 90. SAME BY ADMINISTRATOR, ETC.] Upon the death of any of the officers enumerated, the successor of such officer shall make such demand as above provided of the executors or administrators of such deceased officer, and such executors or administrators shall deliver, upon like oath, all records, books, papers or moneys in their possession, or under their control, belonging to the office held by their testator or intestate.

§ 91. ELECTION PRECINCT.] Each township organized under this chapter constitutes an election precinct.

§ 92. TOWNSHIP SHALL NOT CONTRACT DEBTS IN EXCESS OF TAXES.] No township has power to contract debts or make expenditures for any one year in a larger sum than the amount of taxes assessed for such year, without having been authorized by a majority of the voters of such township, and no township shall assess for township purposes more than three mills on the dollar of taxable property for any one year.

§ 93. THIS ACT NOT TO APPLY TO INCORPORATED CITIES.] Nothing in this chapter contained shall in any way apply to any portion of the territory which is embraced within the limits of any incorporated city; but each incorporated city shall have and exercise within its limits, in addition to its other powers, the same powers conferred by this chapter upon townships, in the same manner prescribed by law.

FORMS.

FORM OF NOTICE FOR FIRST TOWNSHIP MEETING.

The legal voters of the township of ....., in the county of ....., and Territory of Dakota, are hereby notified that the first township meeting for said township will be held at ....., in said township, on ....., the ..... day of ..... A. D. 18.., for the purpose of electing the following township officers: (State township officers to be elected.)

Attest: ..... )
....., Clerk. ) Commissioners.

FORM OF NOTICE OF ANNUAL TOWNSHIP MEETING.

The citizens of the township of ....., in the county of ....., and Territory of Dakota, who are qualified to vote at general elections, are hereby notified that the annual township meeting for said township will be held at ....., in said township, on Tuesday, the ..... day of April next, between the hours of nine o'clock in the forenoon and four o'clock in the afternoon of the same day, for the following purposes:

1. To elect three supervisors, one of whom shall be designated on the ballots as chairman, one township clerk, one treasurer, one assessor, two justices of the peace, two constables, and overseer of highways for each road district in said township.

2. To (state the business to be transacted,) and to do any other business proper to be done at said meeting when convened.

Given under my hand, this ..... day of ....., A. D. 18..
....., Town Clerk.

FORM OF STATEMENT TO BE FILED IN THE OFFICE OF TOWNSHIP CLERK FOR SPECIAL TOWNSHIP MEETING.

The undersigned, township officers and other freeholders of the township of ....., in the county of ....., hereby declare and state that a special township meeting is necessary to the interests of said town, for the purpose of (here set forth the object of the meeting.)

Witness our hands this ..... day of ....., A. D. 18..
....., Supervisor.
....., Township Clerk.
....., Justices of the Peace.
....., Peace.
(Names of twelve other freeholders.

FORM OF NOTICE FOR SPECIAL TOWNSHIP MEETING.

WHEREAS, The supervisors, township clerk, and justices of the peace, (or as the case may be,) together with twelve others, freeholders of the township of ....., have, in writing filed in my office a statement that a special township meeting is necessary to the interests of said township.

The inhabitants, legal voters of the said township of ....., are therefore hereby notified, that a special township meeting will be held at ....., on the ..... of ....., A. D. 18.., at nine o'clock in the forenoon, for the purposes following, to-wit: To (here enumerate specifically in proper order, the subjects to be acted upon as contained in the statement filed.) Being the objects contained in the statement filed in my office.

Given under my hand at ....., this .... day of ....., A. D. 18
....., Township Clerk.

NOTICE OF ELECTION TO TOWNSHIP OFFICE.

To.....:

You are hereby notified that at the annual township meeting, (or special town meeting,) held in the town of ....., county of ....., and Territory of Dakota, on the .... day of ....., A. D. 18.., you were duly elected to the office of .....

Given under my hand, this ..... day of ....., A. D. 18

....., Township Clerk.

FORM OF OATH.

TERRITORY OF DAKOTA, )
.....County. } ss.

I, ....., do solemnly swear, (or affirm,) that I will support the constitution of the United States, and of the territory of Dakota, and faithfully discharge the duties of the office of .... of the township of ....., in the county of ....., to the best of my ability. ...., A. D. 18..

Sworn to and subscribed before me this .... day of ....., A. D. 18..

A B, Justice of the Peace.

NOTICE OF ACCEPTANCE OF OVERSEER OR POUND MASTER.

To ... .., Township Clerk of the township of.....

SIR:—Having been elected (or appointed) overseer of highways (or pound master) for district number .....in said township, on the .... day of ....., A. D. 18...., I hereby notify you that I accept said office.

Witness my hand, this ..... day of ....., A. D. 18....

FORM OF TREASURER'S BOND.

Know all men by these presents that we, A B, of the township of ....., in the county of ....., in the territory of Dakota, as principal, and C D and E F, of said county and state, as sureties, are held and firmly bound unto (names of supervisors) supervisors of said township of ....., and their successors in office, in the penal sum of (double the amount of money to be received) for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, and dated this ..... day of ..... A. D. 18 ....

The condition of the above obligation is such that, whereas, the above bounden, A B, has been elected (or appointed) treasurer for the said township of ....., for the current year, and has accepted the office, and is about taking upon himself the discharge of its duties.

Now, therefore, if the said A B shall faithfully execute and discharge all his duties as such treasurer, then the above obligation to be void, otherwise to remain in full force and effect.

A.....B..... [SEAL.]
C.....D..... [SEAL.]
E..... F..... [SEAL.]

INDORSEMENT OF APPROVAL.—I hereby approve the within bond and the sureties thereon.

.....
Chairman of Board of Supervisors of the township of .....

Dated ..... A D 18....

FORM OF WARRANT OF APPOINTMENT BY JUSTICES OF THE PEACE AND BOARD OF SUPERVISORS TO FILL VACANCY.

To ....., Esq., of the township of ....., in the county of ....., territory of Dakota, greeting:

WHEREAS, said township has failed to elect (state the officer, or if the vacancy occurs from any other cause named in the section, so state) for the year 18 ....., and the office of ..... is now vacant: Therefore we do hereby appoint you (insert title of office) for said term (or county) to hold said office until the next annual township meeting, and until a successor is elected and qualified in your place; and you shall have the same powers and be subject to the duties and penalties as if you had been duly elected to said office.

Given under our hands this ..... day of ..... A. D. 18 ....

..... } Supervisors.
..... }
..... } Justices of
..... } the Peace.

FORM OF NOTICE BY TOWNSHIP CLERK TO ONE APPOINTED TO FILL VACANCY.

To ....., Esq., of the township of .... in the county of ....., and territory of Dakota:  
 You are hereby notified that on the ..... day of ..... A. D. 18 ....., the justices of the peace and supervisors of said township, by their warrant of that date, under their hands, appointed you to the office of (here insert the title of the office) for said township, which warrant has been duly filed in my office.  
 Given under my hand this ..... day of ..... A. D. 18 .....

..... Township Clerk.

FORM OF NOTICE FOR TOWNSHIP MEETING WHERE TOWNSHIP HAS FAILED TO ELECT TOWNSHIP OFFICERS.

The township of ..... county of ....., and territory of Dakota, having neglected at the time fixed by law to organize and elect township officers, we, the undersigned petitioners of said town, do hereby call a township meeting to elect [state the officers] to be held at ....., in said town, on the ..... day of ..... A. D. 18 ....  
 Dated ....., A. D. 18 .....

[Names of at least twelve freeholders.]

AFFIDAVIT OF FREEHOLDER IN CASE NOTICE OF TOWNSHIP MEETING IS NOT GIVEN WITHIN THIRTY DAYS AFTER TIME FOR HOLDING ANNUAL TOWN MEETING.

TERRITORY OF DAKOTA, }  
 County of ..... } ss.

A B, being duly sworn, says he is a freeholder of and in the township of ....., in said county, that said township did, at the time fixed by law for holding its last annual township meeting, neglect [or refuse] to organize and elect township officers; that no notice for special township meeting to elect said officers has been given within thirty days after the time for holding the annual township meeting as aforesaid, and that this affidavit is made under section 47, for the purpose of enabling the board of county commissioners of said county to appoint the necessary township officers for the township aforesaid.

Subscribed and sworn to before me this ..... day of ....., A. D. 18 .....

WARRANT OF APPOINTMENT BY BOARD OF COUNTY COMMISSIONERS.

WHEREAS, It has been made to appear by the affidavit of ....., filed in the office of the county clerk of the county of ....., and territory of Dakota, on the .... day of ....., A. D. 18 ....., that the town of ....., in said county, did neglect (or refuse) to organize and elect town officers at the time fixed by law for holding its last annual town meeting, and that no notice for a special town meeting to elect said officers has been given within the time allowed by law for that purpose. Therefore we, the board of county commissioners of said county do hereby appoint [state each officer separately] for said town, until others are elected and qualified in their places.

Given under our hands this ..... day of ..... A. D. 18 ....

Attest:  
 ..... County Clerk.

.....  
 Chairman of Board of County Commissioners.

FORM OF RESIGNATION OF TOWNSHIP OFFICER.

To the board of supervisors of the township of ....., county of ....., and Territory of Dakota:

I hereby resign the office of ....., for said township, and respectfully request that my resignation be accepted, for the following reasons: (state cause of resignation.)

Dated this .... day of ....., A. D. 18...

A..... B.....

FORM OF ACCEPTANCE.

The board of supervisors of said township of ....., being satisfied that the causes above set forth are sufficient, do accept the resignation of the said A. B.

Witness our hands this ..... day of ....., A. D. 18..

..... } Supervisors.
..... }
..... }

FORM OF NOTICE TO TOWNSHIP CLERK.

To ....., township clerk of said township of .....

You are hereby notified that the board of supervisors of said township have accepted the resignation of A. B., of the office of ....., for said township, and that said office is now vacant.

Given under our hands this .... day of ... .., A. D. 18..

..... } Supervisors.
..... }
..... }

FORM OF COMPLAINT

TERRITORY OF DAKOTA, )
..... County. } ss

A. B., on oath, complains and says that he is a member of the board of health of and for the township of ....., in said county, that said board on the ..... day of ..... A. D. 18.., thinking it necessary for the preservation of the health of the inhabitants of said township, did attempt to enter (describing the building or vessel, and give name of owner, if known,) situate or being in said township, for the purpose of (state object) which then and there existed, and that said board of health and each member thereof present, was by ..... refused such entry and prevented from entering such (building or vessel,) contrary to the statute in such case provided. And further deponent saith not, except that a warrant issue as prescribed by law.

Subscribed and sworn to before me, this ..... day of ....., A. D. 18..
A..... B.....
.....

FORM OF WARRANT.

TERRITORY OF DAKOTA, )
County of..... } ss.

The Territory of Dakota, to the sheriff or any constable of said county:

WHEREAS, A. B. has this day made complaint under oath to me, that (here insert the substance of the complaint,) and prayed that a warrant issue as prescribed by law; Now, therefore, you are commanded to take sufficient aid, and being accompanied by two or more of the board of health of said township of..... repair to (state place and matter complained of,) and the said (nuisance or other matter) destroy (remove or prevent,) under the direction of the members of the board of health aforesaid.

Given under my hand, this.....of.....A. D. 18..

.....
Justice of the Peace.

FORMS UNDER SECTIONS 66 AND 67.

Town of.....A. D. 18..

..... clerk of the district court of the county of..... :

Sir:-A. B. was elected (or appointed) constable of the township of.....in said county, on the.....day of.....A. D. 18...and has qualified according to law.

.....Township Clerk.

Town of.....A. D. 18..

..... clerk of district court of the county of..... :

Sir:-A. B. was, on the.....day.....A. D. 18.. elected justice of the peace for said township for the term of..... [If elected to fill a vacancy, add:] Said A. B. was elected to fill a vacancy in said office, of which the last incumbent was.....

.....Township Clerk.

FORM OF REPORT OF SUPERVISORS.

Report of the supervisors of the township of.....county of.....and Territory of Dakota, for the year.....:

Items of Account Allowed.	Nature of Account	Name of Person
\$		
\$		

The supervisors estimate that the following sums are necessary for the ensuing year to meet the expenses of the township:

Current expenses.....\$  
 Support of poor.....\$  
 Other incidental expenses.....\$

Total.....\$

[Add general statement of fiscal concerns.]

.....  
 .....  
 .....

Supervisors.

FORM OF STATEMENT OF TOWNSHIP TREASURER.

Annual statement of.....treasurer of the township of.....county of.....and Territory of Dakota, for the year 18..

Money received.	Date.	From whom.	On what Account.	Amount.
				\$
				Total, \$

  

Money paid out.	Date.	To whom.	For what Purpose.	Amount.
				\$
				Total, \$
				Bal, \$

FORM OF NOTICE BY POUND MASTER.

Notice of Impounding and Sale.—Take notice that the following animals [describing them] are impounded in the township of.....county of.....and Territory of Dakota, and that unless said animals are taken away and fees paid within fifteen days after the date of this notice, I will sell the same at public vendue, to the highest bidder in cash, at [state place, which must be where township meetings are usually held,] at.....o'clock in the .....noon of that day.

Dated at.....this .... day of ....., A. D. 18...

.....  
 Pound Master.

FORM OF REPORT OF SUPERVISORS.

The supervisors of the township of.....county of.....and Territory of Dakota, respectfully report that guide posts are erected and maintained in the places following, and none other in said township, viz.: [Give particular description of each place.] The supervisors are of opinion that guide posts ought to be erected and maintained in the following places in said township, and that there are no other places where such guide posts will be necessary or convenient.

Dated ... .., A. D. 18 ....

..... } Supervisors.  
..... }  
..... }

OATH OF PERSON DELIVERING PAPERS, ETC.

You do solemnly swear [or affirm] that you have delivered to me as [state office,] all records, books and papers in your possession, or under your control, belonging to said office of..... heretofore held by you. So help you God.

## CHAPTER 24.

### INCORPORATION OF TOWNS AND CITIES.

§ 1. TOWNSITE TO BE SURVEYED AND PLATTED.] Persons intending to make application for the incorporation of a town, as hereinafter provided, shall cause an accurate survey and map to be made of the territory intended to be embraced within the limits of such town; such survey shall be made by a practical surveyor, and show the courses and distances of the boundaries thereof, and the quantity of land contained therein, the accuracy of which survey and map shall be verified by the affidavit of such surveyor written thereon or annexed thereto.

§ 2. CENSUS TO BE TAKEN.] Such persons shall cause an accurate census to be taken of the resident population of such territory, as it may be on some day not more than thirty days previous to the time of presenting such application to the board of county commissioners, as hereinafter provided; which census shall exhibit the name of every head of a family residing within such territory on such day, and the number of persons then belonging to every such family; and it shall be verified by the affidavit of the person taking the same.

§ 3. SURVEY, MAP AND CENSUS SUBJECT TO EXAMINATION.] Such survey, map and census when completed and verified as aforesaid, shall be left at some convenient place within said territory for examination by those having an interest in such application, for a period of not less than thirty days.

§ 4. APPLICATION FOR INCORPORATION TO BE BY PETITION.] Such application shall be by petition, subscribed by the applicants, and also by not less than one-third of the whole number of qualified voters residing within such territory; and such petition shall set forth the boundaries thereof, the quantity of land embraced according to the survey, and the resident population therein contained, according to said census taken; and the said petition shall have attached thereto or written thereupon, affidavits verifying the facts alleged therein, and it shall be presented at the time indicated in the notice of such application, or as soon thereafter as the board can receive and consider the same.

§ 5. COUNTY COMMISSIONERS TO MAKE ORDER OF INCORPORATION.] The board of county commissioners in hearing such application, shall first require proof, either by affidavit or by oral examination of witnesses before them, that the said survey, map and census were subject to exami-

nation in the manner and for the period required by section three of this act; and if said board be satisfied that the requirements of this act have been fully complied with, they shall then make an order, declaring that such territory shall, with the assent of the qualified voters thereof, as hereinafter provided, be an incorporated town, by the name specified in the application aforesaid, which name shall be different from that of every other town in this territory, and they shall also include in such order a notice for a meeting of the qualified voters resident in said proposed town at a convenient place therein, to be by them named, on some day within one month therefrom, to determine whether such territory shall be an incorporated town.

§ 6. NOTICE OF MEETING TO BE GIVEN.] The board shall cause ten days notice of such meeting, by publication in a newspaper, if one be published in the county, and by posting up copies of said notice not less than ten in number, at the most public places in said proposed incorporated town.

§ 7. OPENING OF POLLS.] At the meeting of the qualified voters, as herein provided, polls shall be opened at nine o'clock in the forenoon of such day, and shall be kept open until four o'clock in the afternoon, when they shall be closed.

§ 8. ELECTION OF INSPECTORS.] The voters at such meeting, shall first proceed to the election of three inspectors who, after being duly chosen and qualified, and one of their number elected clerk, shall without delay proclaim to the meeting that the poll is now opened, and that they are ready to receive the ballots of the voters.

§ 9. MANNER OF VOTING.] The qualified voters of said proposed incorporated town shall vote by ballot, having thereon the words "for incorporation, yes;" or the words "for incorporation, no;" and if a majority of the ballots given at such meeting shall have thereon the word "no," the voters of such proposed town shall be deemed not to have assented to the incorporation thereof as a town, and no further proceedings shall be had in relation thereto; but if a majority of such ballots shall have thereon the word "yes," such territory shall from that time be deemed an incorporated town, to have continuance thereafter, by the name and style specified in the order made by the board of county commissioners, as hereinbefore provided, and the inspectors of such meeting shall make a statement showing the whole number of ballots given at such meeting—the number having the word "yes" thereon, and the number having the word "no" thereon—which statement shall be verified by the affidavit of such inspectors, and shall be returned to such board of commissioners, at their next session, who, if satisfied of the legality of such election, shall make an order declaring that said town has been incorporated by the name adopted, which order shall be conclusive of such incorporation in all suits by or against such corporation; and the existence of such corporation, by the name and style aforesaid, shall thereafter be judicially taken notice of in all courts and places in this territory without specially pleading or alleging the same.

§ 10. DIVISION OF TOWN INTO DISTRICTS.] Such inspectors, when they shall have returned the statement as aforesaid, shall next proceed to divide said town into not less than three nor more than seven districts, having due regard to the equitable apportionment of the population among the same, and the convenience and contiguity of such district.

§ 11. NOTICE OF ELECTION.] They shall also give ten days notice by publication in a newspaper, if one be printed within such town, and by posting such notices in five public places therein, of an election to be held in such town for the purpose of electing officers thereof, naming the place therein, and the day upon which the same shall be had, but such day named shall be within twenty days from the posting of such notices. Every subsequent notice of a corporation election shall be given in like manner by the clerk of said town.

§ 12. ANNUAL ELECTION—WHEN HELD.] An election for officers of said town, after the first election, shall be held annually on the first Monday of May of each year, and at every such election the preceding board of trustees, or any three of them, shall act as the inspectors thereof.

§ 13. HOW LONG POLLS SHALL REMAIN OPEN.] At all elections in said town, the polls shall be open at nine o'clock in the forenoon, and shall not be finally closed until four o'clock in the afternoon of said day.

§ 14. INSPECTORS TO BE THE JUDGES OF ELECTION.] Such inspectors shall preside at such first election, and be the inspectors thereof, and, in the receiving and canvassing of votes, shall be governed by the laws then existing, so far as they are applicable, for the election of county officers.

§ 15. WHAT TOWN OFFICERS TO BE ELECTED.] There shall be elected at the first, and at every subsequent election, one trustee from each district in said town, and also a clerk, assessor, treasurer, marshal and justice of the peace, who shall respectively hold their offices until the first Monday in May next following, or until their successors are elected and qualified: *Provided, however,* That nothing herein contained shall prevent the respective offices of clerk, treasurer, assessor and marshal from being held by one and the same person.

§ 16. PERSONS HAVING HIGHEST NUMBER OF VOTES TO BE ELECTED—DUTY OF INSPECTORS.] The persons having the highest number of votes for the office of trustee shall be declared elected as such trustees, and the persons who receive the highest number of votes respectively for clerk, marshal, assessor, treasurer and justice of the peace, as designated by the ballot for such office, shall be declared so elected; and if two or more shall have an equal and highest number of votes, and there be no choice, the inspectors of such election shall forthwith determine by lot which shall be deemed elected; and it shall be the further duty of such inspectors to make a certified statement, over their own signatures, of the persons elected to fill the several offices in said town, and file the same with the county clerk in the county thereof, within ten days after the date of such election, and no act or ordinance of any board of trustees chosen at such election shall be valid until the provisions of this section are substantially complied with.

§ 17. COUNTY CLERK TO MAKE RECORD OF STATEMENT.] It shall be the duty of the county clerk of the proper county to make a record of such certified statement, for which services there shall be paid the same fee as is allowed for similar services in other cases.

§ 18. VACANCIES IN THE BOARD OF TRUSTEES—HOW FILLED.] A vacancy occurring in the board of trustees, or in any corporation office, shall be filled by appointment at a special meeting of the trustees called for that purpose, but such appointment shall be made from the district, if a trustee be appointed, in which the vacancy has occurred, and shall in no case extend beyond the annual elections provided for in this act.

§ 19. OFFICERS TO TAKE OATH.] The board of trustees chosen as aforesaid, shall elect a president from their own body, and such president, trustees, and all other officers elect shall within five days after such election, take and subscribe before some person authorized to administer the same, the usual oath or affirmation for the faithful performance of the duties of their respective offices.

§ 20. BOARD OF TRUSTEES A BODY CORPORATE.] The president and trustees of such town, and their successors in office, shall constitute a body politic and corporate, by the name of the town of ————, and shall be capable in law to prosecute and defend suits to which they are a party.

§ 21. NOTICE OF SPECIAL MEETING.] Special meetings of the qualified voters may be called by the clerk by order of the trustees of said town, by giving ten days notice thereof in a newspaper, if any be printed in such town; otherwise by posting up such notices in five public places therein, and such notice shall state the object for which each meeting is called.

#### POWERS OF THE BOARD OF TRUSTEES.

§ 22. POWERS OF BOARD OF TRUSTEES.] The board of trustees shall have the following powers, viz:

1. To have a common seal, and alter the same.
2. To purchase, hold, or convey any estate, real or personal, for the use of the corporation, so far as such purchase may be necessary to carry out the objects contemplated by this act.
3. To organize fire companies, hook and ladder companies, to regulate their government, and the times and manner of their exercise, to provide all necessary apparatus for the extinguishment of fires; to make owners of buildings provide ladders and fire buckets; which are hereby declared to be appurtenances to the real estate, and exempt from execution, seizure or sale; and if the owner shall refuse to procure suitable ladders or fire buckets after reasonable notice, the trustees may procure and deliver the same to him; and in default of payment therefor, may recover of said owner the value of such ladder, or fire buckets, by suit before the justice of the peace of the town incorporated by the provisions of this act, and costs accrued thereby; to regulate the storage of gunpowder and other materials; to direct the construction of a place for the safe deposit of

ashes; and may under any order by them, entered upon the proper book of the board, visit, or appoint one or more fire wardens to visit, and examine at all reasonable hours, dwelling houses, lots, yards, enclosures and buildings of every description, discover if any of them are in a dangerous condition, and provide proper remedies for such dangers; to regulate the manner of putting up stoves and stove pipes; to prevent out-fires, and the use of fireworks, and the discharge of fire-arms within the limits of said corporation, or such parts thereof as they may think proper; to compel the inhabitants of such town to aid in the extinguishment of fire and prevent its communication to other buildings, under such penalties as are in this act provided; to construct and preserve reservoirs, wells, pumps and other water works, and to regulate the use thereof, and generally to establish other measures of prudence, for the prevention or extinguishment of fires as they shall deem proper.

4. To declare what shall constitute a nuisance, and to prevent, abate and remove the same and take such other measures for the preservation of the public health, as they shall deem necessary.

5. To restrain from running at large, cattle, swine, or other animals.

6. To restrain and prohibit gambling and other disorderly conduct; to suppress and prohibit the keeping of houses of ill-fame, and to authorize the seizure and destruction of gambling apparatus.

7. To license, regulate or restrain auction establishments, traveling peddlers, public exhibitions and the sale of intoxicating liquors within the corporation.

8. To establish and regulate markets, and build market houses, and direct the location of slaughter houses.

9. To lay out, open, grade and otherwise improve the streets, alleys, sewers, sidewalks and crossings, and to keep them in repair and to vacate the same.

10. To appoint street commissioners, and also fire wardens, not exceeding three.

11. To prohibit incumbrance of the sidewalks of said town, and riding or driving thereon, except to cross the same.

12. To provide means for keeping and preserving the peace and quietness of such town.

13. To insure the public property of such town.

14. To purchase, lay out and regulate cemeteries.

15. To plant trees upon public grounds, and along the streets of such town, and provide for their culture and preservation, and to enclose any public square or other public ground within said corporation.

16. To levy and collect annual taxes not exceeding fifty cents on the hundred dollars valuation, and twenty-five cents poll tax on all property subject by law to taxation.

17. To levy and collect annually a tax of one dollar on each male dog and two dollars on each female dog owned and kept within such town.

18. To make and establish such by-laws, ordinances and regulations not repugnant to the laws of this territory as may be necessary to carry into

effect the provisions of this act, and to repeal, alter or amend the same as they shall seem to the board of trustees of such town to require; but every by-law, ordinance or regulation, unless in case of emergency, shall be published in a newspaper in such town, if one be printed therein, or posted in five public places at least ten days before the same shall take effect.

19. To enact fines, penalties and forfeitures for violations of this act, or of any by-law or ordinance by them established, not exceeding ten dollars for any one offense, which may be recovered by action in the name of the corporation, but such board may remit the whole or any part of the fine, penalty or forfeiture: *Provided*, That the fine assessed for the violation of any ordinance requiring a license shall not be less than the amount required to be paid for such license, although it may exceed the sum of ten dollars.

§ 23. JURISDICTION OF TRUSTEES OVER PUBLIC GROUNDS.] The trustees shall have jurisdiction over any commons or public grounds belonging to said town and shall have power to regulate, with the consent of a majority of the owners thereof, the banks, shores and wharves of that portion of any navigable streams within the corporate limits, but no ferries heretofore, or which may hereafter be established by law, shall be prejudiced or in any manner affected by the provisions of this act.

#### OF THE AUDITING AND PAYMENT OF ACCOUNTS.

§ 24. APPROPRIATION OF MONEYS ] All moneys however derived belonging to such corporation shall only be appropriated for such objects, and defraying such expenses as accrue, or necessarily arise in the exercise of powers granted by this act. No appropriation shall be made without an order to that effect entered upon a proper book to be kept for that purpose by such board.

§ 25. OF AUDITING ACCOUNTS.] No account or claim against said town shall be audited or allowed by the board of trustees, unless it be made out fully and itemized, and every such account audited shall be numbered from one upwards, in the order they were presented and a memorandum of the same entered upon a book to be kept exclusively for that purpose.

§ 26. PAYMENT OF ACCOUNTS.] No account or claim shall be paid unless audited and allowed by the board as aforesaid, and no moneys shall be drawn from the treasury except upon a warrant from the treasurer signed by the president of said town, and attested by the clerk thereof.

#### OF CORPORATE INDEBTEDNESS.

§ 27. CONTRACTING OF LOANS.] No incorporated town under this act, shall have power to borrow money or incur any debt or liability unless the citizen owners of five-eighths of the taxable property of such town, as evinced by the assessment roll of the preceding year, petition the board of trustees to contract such debt or loan, and such petition shall have attached thereto an affidavit verifying the genuineness of the signatures to the same, and for any debt created thereby, the trustees shall add to the tax duplicate of each year successively, a levy sufficient to pay the annual

interest on such debt or loan with an addition of not less than five cents on the hundred dollars to create a sinking fund for the liquidation of the principal thereof.

OF THE QUALIFICATION OF OFFICERS.

§ 28. CERTAIN OFFICERS TO GIVE BONDS.] The clerk, assessor, treasurer, marshal and justice of the peace, shall within ten days after their election or appointment, each and severally give bonds payable to the town of \_\_\_\_\_, with freehold sureties, to such an amount as the board of trustees shall direct; but the bonds of the treasurer and marshal shall respectively be for double the amount of the estimated tax duplicate for the current year.

§ 29. BOOKS AND VOUCHERS TO BE DELIVERED SUCCESSOR.] All books, vouchers, moneys or other property, belonging to the corporation, and in charge or possession of any officer of the same shall be delivered to his successor when qualified.

LEVY AND COLLECTION OF TAXES.

§ 30. BOARD OF TRUSTEES DETERMINE AMOUNT OF TAX.] The board of trustees shall before the third Tuesday in May of each year, determine the amount of general tax for the current year.

§ 31. DUTIES OF ASSESSOR.] The assessor shall assess all property liable to taxation in such town under such rules and regulations as the board may prescribe, and shall make return of his assessment roll to such board on or before the second Tuesday of June of each year.

§ 32. NOTICE OF OPENING OF ASSESSMENT ROLL.] The trustees shall cause the clerk of said corporation to put up notices, in three or more public places in said town, stating that the assessment roll is returned and open for inspection, and that on a day and at a place to be specified in said notice, the trustees will hear, and decide all complaints of, and appeals from, the acts of said assessor.

§ 33. CORRECTION OF TAX LIST.] When the assessment roll shall have been corrected and completed, the trustees shall levy a tax upon the taxable property of said town, to such an amount as they may deem necessary, and shall set opposite the name of each person taxed, a description and valuation of the property charged therewith, and the amount of tax assessed against such person, and when such tax list shall have been made, they shall cause a copy thereof, with a warrant annexed, to be delivered to the marshal of such town. The assessment roll and tax list, shall be deposited with the treasurer of such town who is hereby charged with the safe custody of the same.

§ 34. WARRANT TO MARSHAL TO COLLECT AND PAY OVER TAXES.] Such warrant shall be under the seal of the corporation, signed by the president and trustees, or a majority of them and attested by the clerk, and shall command the marshal to collect the taxes specified in his duplicate within ninety days, and pay over the same, and make return of

said warrant, to the treasurer of said town. Such trustees may renew such warrant, for any period not exceeding thirty days.

§ 35. POWERS OF MARSHAL TO COLLECT TAX.] The marshal shall collect the taxes on said duplicate when so required, and shall have the same power to enforce collections, and shall be governed by the same rules and regulations as county treasurers and collectors, and shall have authority in like manner to collect by distress and sale of personal property, but if the tax cannot be so made and it becomes necessary to sell real estate such tax shall be certified to the county treasurer, who shall proceed and collect the same as directed by the statute governing tax sales: *Provided*, That this shall not apply to incorporate cities, villages, or towns, for which a different method is provided by their charter.

§ 36. TAX DUPLICATE MAY BE DELIVERED TO COLLECTOR.] The trustees of such town may at their option in the first instance deliver the tax duplicate to the collector of the proper county on or before the first day of August in each year, instead of the marshal of such town, and said collector shall enter said tax, and if delinquent, the interest and penalty thereon, upon his duplicate.

§ 37. COMPENSATION OF COLLECTOR AND TREASURER.] The collector of such county shall collect the corporation taxes upon such duplicate as other taxes are collected and pay the same over to the treasurer of such corporation. The collector and treasurer shall be allowed and paid by the corporation the same compensation as is paid by the county for like services.

#### POWERS AND DUTIES OF OFFICERS.

§ 38. DUTIES OF TREASURER.] The treasurer of every incorporated town shall so keep his accounts as to show where, and from what sources, all moneys paid him have been derived, and to whom and when such moneys, or any part thereof, have been paid. The treasurer shall grant all licenses authorized by this act, upon the presentation of the receipt of the marshal, that the money therefor has been paid to said marshal. His books, accounts, and vouchers, shall at all times be subject to the examination of the board of trustees, and it is hereby made their duty to examine the same, at a regular meeting of such board, on some day between the first and last Mondays of April, in each year, and have settlement with the said treasurer.

§ 39. BOARD OF TRUSTEES TO PUBLISH RECEIPTS AND EXPENDITURES. It shall be the duty of the board of trustees, immediately after the annual settlement with the treasurer of said corporation, to publish in a newspaper if one be printed therein, or if there be no newspaper, then by posting in three or more public places, an exhibit of the receipts and expenditures, specifying the sources of such receipts, what appropriations were made for what objects, and the specific amount of each.

§ 40. DUTIES OF CLERK.] The clerk of such town shall have the custody of the records, books and papers of the board of trustees, and shall attend all meetings and record the proceedings of said board, and shall per-

form all other duties appertaining to his office, as required of him by the by-laws.

§ 41. POWERS OF MARSHAL.] The marshal of such town shall be a peace officer, and shall possess the powers and be subject to the liabilities possessed and conferred by law upon sheriffs in executing the orders of the trustees, or enforcing the by-laws and ordinances of said town.

§ 42. TRUSTEES TO SUPERINTEND GRADING, &C.] The board of trustees shall superintend the grading, paving and improving of streets, and the building and repairing of sidewalks.

§ 43. DUTIES OF FIRE WARDENS.] The fire wardens shall attend all fires, and give their personal superintendence to extinguish the same, and do all other acts required by the by-laws, and obey all orders given by the board of trustees in relation to the fire department. Trustees shall by virtue of their office be fire wardens.

§ 44. COMPENSATION OF TOWN OFFICERS.] The trustees, clerk, assessor, treasurer, marshal and justice of the peace, shall respectively receive for their services, such compensation as the board of trustees in their by-laws may decide; and said board shall cause to be paid other officers of such town for their services a just and reasonable compensation.

#### OF SIDEWALKS AND STREETS.

§ 45. REPAIRING STREETS AND SIDEWALKS.] Whenever two-thirds of all resident owners in number, or in value of real estate, bounding both sides of any street not less than one square, shall petition to have such streets graded, paved or otherwise improved, or the sidewalks thereof built or repaired, or when two-thirds of the owners of real estate in number, or in value, on one side of such street shall desire a sidewalk on that side, it shall be the duty of such board, to levy, and cause to be collected by tax, upon the owner of real estate, or lots on such street or part of a street, according to the last assessed valuation of real estate, such a sum of money as is necessary for the improvement of said street or sidewalk, as in said petition requested.

§ 46. NOBODY EXEMPT FROM HIGHWAY TAX.] Nothing contained in this act shall exempt the inhabitants of any town, from the payment of highway taxes legally assessed, nor from the formation of one or more road districts, irrespective of the corporate limits of such town.

#### EXTENSION OF CORPORATE LIMITS.

§ 47. ADDITION TO CORPORATION.] When two-thirds of the owners of a tier of out-lots, adjoining an incorporated town, shall sign a petition, asking that the corporate limits of said town be extended so as to include said out-lots, the board of trustees of said town shall cause said petition to be recorded, and make an order that said tier of out-lots shall thereafter be included, and constituted a part of said corporation, and the inhabitants residing thereon, and owners thereof, shall be subject to and entitled to all privileges of said corporation.

§ 48. ANNEXING OF ADDITIONAL LOTS.] Whenever there shall be lots laid off, and platted, adjoining such town, and a record of the same is made in the register of deeds office of the proper county, the trustees may by a resolution of their board, extend the boundary of such town so as to include such lots; and the lots thus annexed shall thereafter form a part of such town and be within the jurisdiction thereof. The trustees shall immediately thereafter file a copy of such resolution, together with a plat and map of survey, defining the boundaries of such addition, in the office of the register aforesaid.

§ 49. PROCEEDINGS OF TRUSTEES TO ANNEX ADDITIONS.] When any town shall desire to annex contiguous territory thereto, not platted, or laid or recorded, the trustees shall present to the board of county commissioners, a petition setting forth the reasons for such annexation, and shall accompany the same with a map or plat, accurately describing by metes and bounds the territory proposed to be attached, which shall be verified by affidavit. Such trustees shall give thirty days notice by publication in a newspaper printed in such town, if any, otherwise in the county, or if none there, by posting up such notice in five or more public places within the corporation; a copy of such notice shall be served on the owner or owners of such territory, if known, and are residents of the county.

§ 50. COUNTY BOARD TO HEAR AND ORDER ANNEXATION.] The board of county commissioners upon the reception of such petition shall consider the same, and shall have the testimony offered for or against such annexation, and if after inspection of the map and the testimony being heard, such board is of the opinion that the prayer of such petition should be granted, it shall cause an entry to be made on the order book, specifying the territory annexed with the boundaries thereof, according to the survey, which entry or an attested copy thereof shall be conclusive evidence in all courts of such annexation.

#### DISSOLUTION OF CORPORATION.

§ 51. DISSOLUTION OF CORPORATION.] When an application signed by one-third of the legal voters of any incorporated town, shall be presented to the board of trustees, in writing, asking for a dissolution of the corporation, setting forth the reasons therefor, it shall be competent for said board, if they deem the reasons good, to call a meeting of the voters of said town by giving ten days notice thereof, as provided in this act, to determine whether such corporation shall be dissolved. The board of trustees shall preside at such meeting, and a poll shall be opened, as at any other corporation election, and the voters shall vote by ballot, "yes" or "no." If a majority of all the votes given shall have thereon the word "yes" and such votes shall have been given by two-fifths of all the legal voters in such town, a statement of the vote, signed by the president and attested by the clerk, shall be filed in the register of deeds' office of the county, and such town shall at the expiration of six months from the time of holding such meeting, cease to be a corporation, and the property belonging to

such corporation, after the payment of its debts and liabilities, shall be disposed of in such manner as a majority of the voters of such town at any special meeting thereof may direct.

§ 52. DISSOLUTION NOT TO AFFECT EXISTING CONTRACTS.] No such dissolution shall affect the rights of any person in any contract or agreement to which such corporation is a party.

§ 53. PROOF OF COMPLIANCE WITH LAW BY TOWN.] Whenever any suit shall be instituted by an incorporated town, it shall not be required to show its compliance with any of the provisions of this act, as to its organization, or publication of by-laws or ordinances, unless the same is controverted by affidavit.

§ 54. INCORPORATED TOWNS MAY ADOPT THIS ACT.] Any town heretofore incorporated by special act, may, by a resolution of the board of trustees, or other municipal board thereof, entered upon the record book of the corporation, become incorporated under this act, but the same shall be deemed a surrender of all the rights and franchises acquired under any former act of incorporation or acts amendatory thereto. A copy of such resolution shall be filed with the register of deeds of the proper county, and entered by him of record. Trustees and other officers of such incorporated towns, by whatever name designated, performing duties of a like nature to those required of officers created by this act, shall continue to be the officers of such town, by the name as specified in this act, until superseded by the annual election.

§ 55. WHEN DEBT NOT NULLIFIED.] No debt or liability due to or from any incorporated town shall be unpaid by reason of such town being brought within the provisions of this act, and becoming incorporated under it.

§ 56. PROCEEDINGS FOR VIOLATION OF ORDINANCES.] Any person or persons violating the provisions of any ordinance of a town organized under this act, to which there may be a penalty affixed, shall be presented before the justice of the peace of such town, and that the justice of the peace of such town shall have exclusive jurisdiction, and it shall be his duty to hear and determine all offenses against the ordinances of the town.

#### MISCELLANEOUS PROVISIONS.

§ 57. HOW ORDINANCES MAY BE PROVEN.] All ordinances of the town may be proven by the ordinance book of the town, or the certificate of the clerk of the town, under seal of the town; and when printed in a newspaper, or published in a book or pamphlet form, and purporting to be published or printed by the authority of the town, shall be read and received in all courts and places without further proof.

§ 58. TAXES ASSESSED TO BE A LIEN.] All taxes assessed by the board of trustees of towns incorporated under the provisions of this act, for the grading, paving, or otherwise improving the streets of the town, or for building or repairing sidewalks of the town, shall be a lien on the lots or pieces of ground subject to the same, from the time the amount thereof shall have been ascertained; and in case any error or irregularity should

occur in levying or collecting any such tax, proceedings may be taken anew, so as to obviate any such error or irregularity.

§ 59. TAXES—HOW COLLECTABLE, AND PENALTY WHEN DELINQUENT.] Such special tax shall be due and may be collected as the improvements are completed in front of or along or upon any block, lot or piece of ground, or at the time the improvement is completed according as shall be provided in the ordinance levying the tax. Such tax, if not paid within thirty days after becoming due, shall have added thereto a penalty of ten per cent., and shall bear interest from the day of sale, at the rate of twenty-five per cent. per annum, to be computed on the tax, penalty and costs of sale.

§ 60. WHAT COSTS MAY BE INCLUDED IN TAX.] The cost and expenses of grading, filling, paving, macadamizing, culverting, curbing and ditching, or otherwise improving streets, sidewalks, alleys, avenues or lanes at their intersections, may be included in the special tax levied for the improvement of any street, sidewalk, alley, avenue or lane as may be deemed best by the board of trustees of such town.

§ 61. MARSHAL'S DUTY IN RELATION TO TAXES.] When the special tax is levied it shall be the duty of the marshal of such town to calculate the amount of tax on any block, lot, or piece of ground, and file a statement thereof with the town clerk, who shall, as soon as the tax is due on any block, lot or piece of ground, issue a certificate describing it, its number and lot and block, and stating the amount of tax due thereon, and the name of the person entitled to the same, and the purpose for which said tax was levied; and such certificate so given shall be the tax warrant of the contractor, and shall be by the clerk placed in the hands of the marshal, and he shall keep a record of all such warrants and enter on the margin of such records all amounts paid, and by whom paid.

#### PROCEEDINGS IN CITY JUSTICE'S COURT.

§ 62. DUTY OF JUSTICE ON COMPLAINT BEING MADE.] Whenever complaint shall be made to the justice of the peace of a town organized under the provisions of this act, upon the oath or affirmation of any person competent to testify against the accused that an offense has been committed of which such justice of the peace has jurisdiction, said justice of the peace shall forthwith issue a warrant for the arrest of the offender, which warrant shall be served by the marshal, or some person specially appointed by such justice of the peace for that purpose.

§ 63. DUTY OF JUSTICE WHEN DEFENDANT APPEARS.] When any person shall be brought before such justice of the peace upon such warrant it shall be his duty to hear and determine the complaint alleged against the defendant.

§ 64. PROCEEDINGS WHERE TRIAL IS POSTPONED.] Upon good cause shown such justice of the peace may postpone the trial of the cause to a day certain, in which case he shall require the defendant to enter into bond with sufficient security, conditioned that he will appear before such

justice of the peace at the time and place appointed, and then and there to answer the complaint alleged against him.

§ 65. JUSTICE TO SUMMON WITNESSES.] It shall be the duty of such justice of the peace to summon all persons whose testimony may be deemed material as witnesses at the trial, and to enforce their attendance by attachment if necessary, and when a trial shall be continued by such of the peace he may verbally notify such witnesses as may be present at the continuance to attend before him to testify in the cause set for trial, and such verbal notice shall be as valid as a summons.

§ 66. TRIALS—HOW GOVERNED.] All trials before such justice of the peace shall be governed by the criminal procedure applicable to justice's courts.

§ 67. WHEN DEFENDANT FOUND GUILTY JUSTICE TO RENDER JUDGMENT.] In all trials for offenses under the ordinances of the town incorporated under and by the provisions of this act, if the defendant is found guilty, such justice of the peace shall render judgment accordingly. It shall be part of the judgment that the defendant stand committed until the judgment be complied with; in no case to exceed one day for every seventy-five cents of the fine and costs assessed against said defendant.

§ 68. JUSTICES PEACE OFFICERS.] Such justice of the peace shall be a conservator of the peace, and his court shall be open every day except Sunday, to hear and determine any and all cases cognizable before him; and he shall have power to bring parties forthwith before him for trial; and no act shall be performed by him on Sunday, except to receive complaints, issue process and take bail.

§ 69. APPEALS TO BE ALLOWED AND CONDITIONS.] In all cases before such justice of the peace, an appeal may be taken by the defendant to the district court of the county in which such town is situated; but no appeal shall be allowed unless such defendant shall, within ten days enter into recognizance with sufficient securities, to be approved by such justice of the peace, conditioned for the payment of the fine and costs and costs of appeal, and that he will render himself in execution thereof if it should be determined against the appellant.

§ 70. ON CONVICTION—HOW PUNISHED.] Any person convicted before such justice of the peace of an offense under the ordinances of the town, shall be punished by fine as may be regulated by ordinances.

§ 71. POWERS OF JUSTICE—EXCEPTIONS—WHEN JURY CALLED.] The justice of the peace of the town organized under the provisions of this act, shall have power to enforce obedience to all orders, rules, judgments and decrees made by him; and he may fine or imprison for contempt offered to him while holding his court, or to process issued, or orders made by him in the same manner and to the same extent as provided for courts of justice of the peace. On the trial of any case in said court, it shall be the duty of such justice of the peace to sign any bill of exceptions rendered to the court during the progress of such trial; *Provided*, The truth of the matter be fairly stated, and thereupon said exceptions shall be entered in the record of such trial, and become a part thereof;

and any final conviction, sentence, or judgment of said court may be examined by the district court of the county in which such town is situated, on writ of error, which may be allowed by the district court or the judge thereof, for sufficient cause, and proceedings may be stayed as may be deemed reasonable, and the revising court shall, in such proceedings take judicial notice of all the ordinances of such town. Cases before such justices of the peace, arising under town ordinances, shall be tried and determined by such justice of the peace without the intervention of a jury, unless the defendant demand a trial by jury; and when a demand shall be so made, the trial shall be by jury of twelve citizens of such town, having the qualifications of jurors, who shall be summoned by the marshals of such town upon a venire issued by such justice of the peace. That the venire for a jury shall contain eighteen names, three of whom shall be stricken off the list by the defendant, and three by the marshal of such town; the remaining twelve names shall constitute a jury for the trial of a cause. If there is any challenges for cause, such justice of the peace shall try the question in a summary manner, who may examine the challenged jurors under oath.

§ 72. FEES OF JURORS.] Such jurors shall be paid fifty cents for their services as jurors in each case.

§ 73. COSTS TAXED TO DEFENDANT.] In case the defendant is found guilty, the costs of the jury shall be taxed against him as a part of the costs of the case, and the amount thereof shall be a part of the judgment.

§ 74. PROCEEDINGS—HOW GOVERNED.] In all cases not herein specially provided for, the process and proceedings of the court of such justice of the peace shall be governed by the laws regulating proceedings in justices' courts in criminal cases.

## CHAPTER 25.

### TOWNSITES.

§ 1. CORPORATE AUTHORITIES DETERMINE BY ORDINANCE SHARES OF CLAIMANTS, AND MAKE DEED.] When any city, town, or village, holds the title of any lands in trust, under and by virtue of the acts of congress, approved March 2d, 1867, and June 8th, 1868, the mayor and common council, the president and trustees, or other general corporate authorities thereof, shall ascertain and by ordinance declare the persons who are severally entitled to each and every block, lot, share, or parcel thereof, according to his, her, or their several and respective rights, claim or interest, in and to the same, as they existed in law or equity at the time of the entry of such lands; and thereupon and in accordance with such ordinance, the mayor, president, or other chief officer of such city, village or town, or his successor in office shall, by a good and sufficient deed of conveyance, grant and convey the title of all such blocks, lots, shares or parcels, to the person or persons so declared entitled to the same, or to his, her, or their heirs or assigns.

§ 2. MAYOR AND CLERK EXECUTE DEED.] Every such grant or deed of conveyance shall be executed by the mayor, president or other chief officer of the corporation, signing and acknowledging the same as provided for grants of real property in the civil code; and the clerk or secretary of such corporation shall also attest the same by his official signature and the corporate seal.

§ 3. DEED ONLY PRIMA FACIE EVIDENCE.] When any such block, lot, share or parcel of such land shall be claimed by two or more persons, the respective right, title, claim and interest, of such persons in relation to each other in the same, shall not be determined finally, nor in any way changed, affected, or impaired by reason of such ordinance and grant, except that such grant shall be prima facie evidence only of such title, and shall place the party receiving the same in possession until the title is otherwise determined.

§ 4. EXTENT OF POWERS HEREIN GRANTED.] The powers and duties herein granted and defined, shall also extend to the execution of conveyances for the purpose of defining and settling boundaries and other questions of title to such blocks, lots, shares or parcels of the real property included by the site which may be unoccupied, and over which such corporate authorities have control under said acts of congress; and also to the execution of any map or chart of the survey of such city, town or village, and of grants of any part of such site which has been set apart or dedicated for such purposes, to the corporation or county for public use in any way, and to grant to the public use all streets, avenues, alleys, parks, squares, or other authorized title or easement, for the public use and benefit.

## CHAPTER 26.

### TOWN AND CITY PLATS.

§ 1. SURVEY AND PLAT NECESSARY.] When any person wishes to lay out a town in this territory, or an addition or subdivision of out lots, such person shall cause the same to be surveyed and a plat thereof made, which shall particularly describe and set forth all the streets, alleys, commons or public grounds, and all in and out lots or fractional lots, within or adjoining to said town, giving the names, width, courses, boundaries and extent of all such streets and alleys.

§ 2. LOTS AND SQUARES NUMBERED.] All the in lots intended for sale shall be numbered in progressive numbers, or by squares in which they are situated, and their precise length and width shall be stated on said map or plat; and out lots shall not exceed ten acres in size, and shall, in like manner, be surveyed and numbered, and their precise length and width stated on the plat or map, together with any streets, alleys, or roads which shall divide or border the same.

§ 3. BASE LINE—HOW FORMED.] The proprietor or proprietors of the town, addition or subdivision of out lots, by themselves or agents, shall, at the time of surveying and laying the same, cause to be planted and firmly fixed in the ground on the line of the main streets of said town two good and sufficient stones, of such size and dimension as the surveyor shall direct. Said stones to be at least two hundred and fifty yards apart, and the lines thus formed shall be a base line from which to make future surveys; and the point or points where the same may be found, shall be distinguished on the plat or map.

§ 4. PLAT OR MAP CERTIFIED AND ACKNOWLEDGED.] The plat or map, after having been completed, shall be certified by the surveyor and the officers; and every person or persons whose duty it shall be to comply with the foregoing requisitions, shall, at or before the time of offering said plat or map for record, acknowledge the same before any person authorized to take the acknowledgment of deeds. A certificate of such acknowledgment shall, by the officer taking the same, be indorsed on the plat or map, which certificate of the survey and acknowledgment shall also be recorded and form a part of the record.

§ 5. OF LANDS DONATED OR GRANTED—OF LAND FOR STREETS.] When the plat or map shall have been made out and certified, acknowledged and recorded, as required by this chapter, every donation or grant to the public,

or any individual or individuals, religious society or societies, or to any corporation or body politic, marked or noted as such on said plat or map, shall be deemed, in law and equity, a sufficient conveyance to vest the fee simple of all such parcel or parcels of land as are therein expressed, and shall be considered to all intents and purposes a general warranty against such donor or donors, their heirs or representatives, to said donee or donees, grantee or grantees, for his, her or their use, for the uses and purposes therein named, expressed and intended, and no other use and purpose whatever; and the land intended to be used for the streets, alleys, ways, commons, or other public uses, in any town or city or addition thereto, shall be held in the corporate name thereof, in trust to and for the use and purposes set forth and expressed or intended.

§ 6. IF COUNTY NOT ORGANIZED, PLAT RECORDED WHERE.] If the county in which said town or addition is situated shall not be organized, then, in that case, the plat or map shall be recorded in the register's office of that county to which the county in which said town is situated shall at the time be attached for judicial purposes.

§ 7. TOWNS LAID OUT TO COMPLY WITH THIS ACT.] When any town, addition or subdivision has been heretofore laid out and lots sold in this territory by agents or proprietors, and a plat or map of the same has not been acknowledged and recorded in conformity with acts heretofore in force, it shall be the duty, and it is hereby required of the county commissioners, or a majority of them in such county, or proprietor or proprietors who have laid out the same, or his, her or their legal representatives, to have the same fairly, fully and clearly made out, acknowledged and recorded in the proper county, in the form and manner required by this chapter; noticing and particularly describing the donation of lands or otherwise to individual societies, bodies politic, or for common or public purposes: *Provided*, That if the lots shall have been differently numbered and sales made, and they cannot be well changed, they shall be returned as originally stated, but in all other respects the plat or map shall conform to the requisitions of this chapter.

§ 8. FEES OF SURVEYOR AND REGISTER.] The surveyor who shall lay out, survey and plat any town or addition, shall be entitled to receive twenty-five cents for each and every in and out lot the same may contain, unless otherwise agreed, and the register of deeds of the county recording the same shall receive the sum of two cents for each and every lot as aforesaid, the said plat and survey to be by him transcribed or copied into a book to be provided for that purpose.

§ 9. PENALTY IF SALE OR LEASE OFFERED BEFORE THIS ACT IS COMPLIED WITH.] If any person or persons shall dispose of, offer for sale or lease for any time any out or in lots in any town or city, or in any addition to any town or city, or any part thereof, which shall hereafter be laid out until all the foregoing requisitions of this chapter shall have been complied with; every person so offending shall forfeit and pay the sum of ten dollars for each and every lot or part of a lot sold or disposed of, leased or offered for sale.

§ 10. PENALTY IF OFFICER OR OTHER PERSON NEGLECT TO DO DUTY.] If any officer or other person or persons whose duty it is to comply with any of the requisitions of this chapter shall neglect or refuse so to do he or they shall forfeit and pay a sum of not less than ten nor more than one hundred dollars for each and every month he or they shall delay a compliance.

§ 11. TOWNS HERETOFORE LAID OUT MUST BE RECORDED WITHIN THREE MONTHS.] All towns heretofore laid out shall be platted or mapped in accordance within the provisions of this chapter, and the plats or maps of the same shall be recorded within three months from the passage of this chapter in the office of the register of deeds of the proper county.

§ 12. OF FORFEITURES AND LIABILITIES.] All forfeitures and liabilities which may be incurred or arise under this chapter shall be prosecuted for and recovered in the name of the county treasurer, and any officer or officers paying over any money to the said treasurer, received under any of the provisions of this chapter, shall take his receipt therefor and forthwith file the said receipt with the clerk of the board of county commissioners, and the said clerk shall charge the amount of said receipt against said treasurer on the books of the county commissioners.

§ 13. DISTRICT COURT MAY ALTER OR VACATE TOWNS.] The district courts are hereby authorized and empowered, on application made by the proprietors of any town within their proper county to alter or vacate the same or any part thereof.

§ 14. NOTICE OF APPLICATION FOR VACATION—HOW GIVEN.] If any proprietor or proprietors of a town shall be desirous of altering or vacating the same, or any part thereof, such proprietor or proprietors shall give notice in writing of such intended application in at least two of the most public places in the county wherein such town may be situated, and insert a copy thereof in a newspaper printed or in circulation in said county, if there be one, at least forty days prior to the sitting of the court to which he or they intend to make such application.

§ 15. PROCEEDINGS BEFORE COURT.] If such applicant or applicants shall produce to said court satisfactory evidence that the notice required by the preceding section of this chapter has been given, the court shall proceed to hear and determine said petition, and may alter or vacate said town or any part thereof, and order their proceedings thereon to be recorded by the clerk with the records of said court.

## CHAPTER 27.

### ELECTIONS.

§ 1. THIS CHAPTER GOVERNS ALL EXCEPT SPECIAL ELECTIONS.] All elections for territorial, district, county, township, precinct, city, and other officers provided by law, shall hereafter be held and conducted in the manner prescribed in this chapter; except as otherwise specially provided for schools in incorporated cities and towns, and for the division of a county into civil townships.

§ 2. GENERAL ELECTION ANNUAL IN NOVEMBER.] The general election shall be held in the several election precincts on the Tuesday next after the first Monday in November in each year, at which election shall be chosen as many officers as are by law to be elected.

§ 3. APPOINTMENT OF JUDGES—PRECINCTS—SERVICE OF NOTICES.] The several boards of county commissioners shall, respectively, at least thirty days prior to the general election in each year, appoint three capable and discreet persons, possessing the qualifications of electors, to act as judges of election at each precinct and for each of the polls of election, as provided for in this act, and when necessary, to set off and establish election precincts or districts, and the county clerks of the several counties shall make out and deliver to the sheriff, coroner, or other person that may be designated by the board of county commissioners of each county, immediately after the appointment of said judges of election, a notice in writing thereof, directed to the judges of election so appointed; and it shall be the duty of such sheriff, coroner, or other person appointed as provided in this section, within ten days after receiving such notice, to serve the same upon each of the said judges of election.

§ 4. JUDGES CHOOSE CLERKS—TERM OF JUDGES AND CLERKS.] The said judges shall choose two persons having similar qualifications with themselves, to act as clerks of the election. The said judges shall be and continue judges of all elections of civil officers to be held at their respective precincts, until other judges shall be appointed as hereinbefore directed, and the said clerks of election may continue to act as such during the pleasure of the judges of election, and the county commissioners shall, from time to time, fill all vacancies which may occur in the office of judges of elections, at any election precinct within their respective counties.

§ 5. NOTICE TO BE POSTED BY COUNTY CLERK.] The county clerks of the several counties shall, at least thirty days before any general election,

and at least ten days before any special election, make out and deliver to the sheriff, coroner, or other person to be designated by them, of their respective counties, three written notices thereof for each election precinct; said notices to be, as nearly as circumstances will admit, as follows, to-wit:

Notice is hereby given, that on the second Tuesday, the ..... day of ..... next, at the house of ....., in the town, district, or precinct of ....., in the county of ....., an election to be held for territorial, township or district offices, (naming the offices to be filled as the case may be,) which election will be opened at nine o'clock in the morning, and will continue open until four o'clock in the afternoon of the same day.

Dated this ..... day of ....., A. D. 18.., (as the case may be.)

(Signed,)

A..... B....., County Clerk.

§ 6. OFFICER TO POST SUCH NOTICES, WHEN AND WHERE.] The sheriff, coroner or other person to whom such notice shall be delivered as aforesaid, shall put up in three of the most public places in each township or district, the notice referring to such district, precinct, or town, at least twenty days previous to the time of holding any general election, and at least eight days previous to the time of holding any special election, and in cases where towns or districts may not be set off by law as election precincts, said notices shall be posted as follows: One at the house where the election is authorized to be held, and two others at two of the most public places in that vicinity or settlement.

§ 7. ELECTORS TO CHOOSE JUDGES, IF VACANCY.] If any person appointed to act as judge of election, as aforesaid, shall neglect or refuse to be sworn to act in such capacity, or shall not be present, the place of such person shall be filled by the votes of such qualified electors residing within the county, town, district or precinct, as may then be present, at the place of election, and the person or persons so elected to fill the vacancy or vacancies, shall be and are hereby vested, for that election, with the same power as if appointed by the board of county commissioners.

§ 8. OATH OF JUDGES AND CLERKS.] Previous to votes being taken, the judges and the clerks of the election shall severally take an oath, in the following form, to-wit:

I, A. B., do solemnly swear, (or affirm, as the case may be,) that I will perform the duties of judge, (or clerk, as the case may be) according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same.

§ 9. WHO TO ADMINISTER OATH.] In case there shall be no judge of a court or justice of the peace present at the opening of the election, or in case such judge or justice shall be appointed judge or clerk of the election, it shall be lawful for the judges of the election, and they are hereby empowered to administer the oath to each other, and to the clerks of the election; and the person administering oaths shall cause an entry thereof to be made and subscribed by him and prefixed to the poll book.

§ 10. WHEN POLLS TO BE OPENED AND CLOSED—ADJOURNMENT FOR DINNER.] At all elections to be held under this act, the polls shall be opened at the hours of nine o'clock in the forenoon and continue open until four o'clock in the afternoon of the same day, at which time the polls shall be closed. Thirty minutes before the closing of the polls, proclamation shall be made

that the poll will be closed in half an hour, but the board may, in their discretion, adjourn the polls at twelve o'clock, noon, for one hour, proclamation of the same being made.

§ 11. PENALTY FOR REJECTING LEGAL VOTE.] Any board of judges who shall willfully and knowingly reject any legal vote, shall be subject to a fine of fifty dollars, to be collected before any justice of the peace, for the use of common schools, on the complaint and proof of any person.

§ 12. MANNER OF VOTING AND FORM OF BALLOT.] Every elector shall vote by ballot, and each person offering to vote shall deliver his ballot to one of the judges of election, in presence of the board. The ballot shall be a paper ticket, which shall contain written or printed, or partly written and partly printed, the names of the persons for whom the electors intend to vote, and shall designate the office to which each person so named is intended by him to be chosen; but no ballot shall contain a greater number of names of persons designated to any office than there are persons to be chosen at the election to fill such office.

§ 13. ALL NAMES VOTED FOR TO BE ON ONE TICKET.] The names of all persons voted for by any elector at any general election, or special election, shall be on one ballot.

§ 14. PROCEEDINGS IN CASE OF CHALLENGE, AND OATH OF ELECTOR. If any person offering to vote shall be challenged as unqualified, by any judge or clerk of election, or by any other person entitled to vote at the same poll, the board of judges shall declare to the person so challenged the qualifications of an elector; if such person shall then state himself duly qualified, and the challenge shall not be withdrawn, one of the judges shall tender the following oath:

You do solemnly swear (or affirm, as the case may be,) that you are twenty-one years of age, that you are a citizen of the United States (or that you have declared your intention to become a citizen conformably to the laws of the United States, and of this territory, on the subject of naturalization, and have taken an oath to support the constitution of the United States), that you have resided in this territory ninety days, and in this county twenty days, and in this precinct five days next preceding this election; that you have not voted at this election.

And if any person so challenged shall refuse to take such oath so tendered, his vote shall be rejected; and, after taking such oath, if the judges have good reason to believe that the person so offering to vote is not a legal voter, before receiving his vote they shall require him to subscribe the oath, which shall be written out and preserved with the poll books for future reference.

§ 15. PENALTY FOR PERJURY.] If any person so offering such vote shall take such oath, knowing it to be false, he shall be deemed guilty of willful and corrupt perjury, and shall, on conviction, suffer such punishment as now is, or shall hereafter be prescribed by law for persons guilty of perjury.

§ 16. JUDGES TO KEEP BALLOT BOX.] There shall be provided and kept by the judges of each election precinct, at the expense of the county in which such precincts are situated, a suitable ballot box with lock and key.

§ 17. STYLE OF BALLOT BOX AND DUTY OF JUDGES.] There shall be an opening through the lid of such box, of no larger size than shall be sufficient to

admit a single folded ballot. Before opening the polls the ballot box shall be carefully examined by the judges of the election, that nothing may remain therein ; it shall then be locked, and the key thereof delivered to one of the judges to be designated by the board, and shall not be opened during the election, except in the manner and for the purposes hereinafter mentioned.

§ 18. JUDGES TO DEPOSIT BALLOT IN BOX.] When a ballot shall be received, one of the judges, without opening the same, or permitting it to be opened or examined except to ascertain whether it be a single ballot, shall deposit it in the ballot box.

§ 19. CLERK TO KEEP POLL LIST.] Each clerk of election shall keep a poll list which shall contain the names of all the persons voting at such election in their numerical order.

§ 20. DUTY OF CLERKS ON ADJOURNMENT FOR DINNER.] At each adjournment of the polls for dinner, the clerks shall in presence of the judges, compare their respective poll lists, compute and set down the number of votes, and correct all mistakes that may be discovered, according to the decision of the board, until such poll lists shall be made, in all respects, to correspond.

§ 21. PROTECTING BOX ON ADJOURNMENT FOR DINNER.] The box shall then be opened and the poll list placed therein; and said box shall then be locked, and a covering with a seal placed on the opening in the lid of such box, so as entirely to cover the same, and the key delivered to one of the judges, and the box to another, to be designated by the board.

§ 22. DISPOSITION OF KEY AND BOX.] The judge having the key shall keep it in his own possession, and deliver it again to the board at the next opening of the polls; and the person having the box shall carefully keep it without opening it, or suffering it to be opened, or the seal thereof to be broken or removed; and shall publicly in that condition, deliver it to the board of judges at the next opening of the poll, when the seal shall be broken, the box opened, the poll lists taken out, and the box again locked.

§ 23. DUTY OF JUDGE TO CHALLENGE.] It shall be the duty of judge of election, to challenge every person offering to vote, whom he shall know or suspect not to be qualified as an elector.

§ 24. JUDGES MAY APPOINT SPECIAL CONSTABLES, COMMIT AND FINE FOR DISORDERLY CONDUCT.] For the preservation of order, as well as to secure the judges and clerks from insult and abuse, it shall be the duty of the constable or constables residing in the town, district or precinct, and should no constable attend at such elections, the judges of elections are hereby authorized and empowered to appoint one or more special constables to assist in preserving order during the election; and the judges are hereby authorized to enforce a fine not exceeding fifty dollars, on any person or persons who shall conduct in a disorderly or riotous manner, and shall persist in such conduct after having been warned of the consequences, and on refusing to pay the same, to commit him or them to the common jail of the county for any time not exceeding twenty days, or until the same

shall be paid; and the constable to whom the order shall be directed, and the jailer of the county, are hereby required to execute said order, and receive such person or persons so committed as though it had been issued by a magistrate in due form of law.

§ 25. DUTY OF JUDGES AFTER CLOSING POLLS.] As soon as the poll of the election shall be finally closed, the judges shall immediately proceed to canvass the vote given at such election, and the canvass shall be public, and shall be continued without adjournment until completed.

§ 26. MANNER OF CONDUCTING THE CANVASS.] The canvass shall commence by a comparison of the poll lists from the commencement, and a correction of any mistake that may be found therein, until they shall be found or made to agree. The box shall then be opened, and the ballots contained therein be taken out and counted by the judges unopened, except so far as to ascertain whether each ballot is single, and if two or more ballots shall be found so folded together as to present the appearance of a single ballot, they shall be laid aside until the count of the ballot shall be completed; and if upon a comparison of the count with the poll lists, and the appearance of such ballots, a majority of such judges shall be of opinion that the ballots thus folded together were voted by one elector, they shall be destroyed.

§ 27. IF BALLOTS AND POLL LISTS DISAGREE.] If the ballots in the box shall be found to exceed in number the whole number of votes on the poll lists, they shall be replaced in the box, after being purged as above, and one of the judges shall publicly draw out and destroy therefrom as many ballots, unopened, as shall be equal to such excess.

§ 28. DUTY OF CLERKS IN CANVASSING VOTES.] The ballot and poll list agreeing, or being made to agree, the board shall then proceed to count and ascertain the number of votes cast, and the clerks shall set down in their poll books the name of every person voted for, written at full length, the office for which such person received such votes, and the number he did receive, the number being expressed at full length, such entry to be made, as nearly as circumstances will admit, in the following form, to-wit:

At an election held at the house of A B, in the town, district or precinct, in the county of . . . ., and territory of Dakota, on the . . . . day of . . . ., the following named persons received the number of votes annexed to their respective names for the following described offices, to-wit: A B had . . . . votes for delegate to congress; C D had . . . . votes for the legislative council; E F had . . . . votes for member of the house of representatives; G H had . . . . votes for coroner; I J had . . . . votes for sheriff; K L had . . . . votes for county commissioner (and in like manner for any other persons voted for). Certified by us, A B, C D, E F, judges of election. Attest: G H, I K, clerks of election.

§ 29. JUDGE TO FORWARD ONE POLL BOOK TO COUNTY CLERK.] The judges of election shall then enclose and seal one of the poll books, and, under cover, direct the same to the county clerk of the county in which such election was held, and the packet thus sealed shall be conveyed by one of the judges or clerks of election, to be determined by lot if they cannot otherwise agree, or by some other person to be agreed upon by the judges, and delivered to said county clerk, at his office, within three days after the closing of the polls, and the other poll book, together with the

ballots and ballot box, deposited with the chairman of the board of county commissioners, and the said poll book shall be subject to inspection at any time thereafter.

§ 30. PENALTY FOR NEGLECT TO DELIVER POLL BOOK TO COUNTY CLERK.] If any judge or clerk of election, after being deputed by the judges of election at which he shall have served as judge or clerk, to carry the poll books of such election to the county clerk, or any other person deputed for that purpose shall willfully refuse or neglect to deliver such poll book to the said county clerk, within the time specified by law, safe with the seals unbroken, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding twelve months, or by both such fine and imprisonment.

§ 31. COUNTY CLERK TO MAKE SEPARATE ABSTRACTS, ETC.] On the fifteenth day after the close of any election, or as soon as all the returns are received, the county clerk, taking to his assistance a majority of the county commissioners of the county, or the judge of the probate court and one county commissioner, shall proceed to open said returns and make abstracts of the votes in the following manner; the abstract of the votes for delegate to congress shall be on one sheet; the abstract of votes for members of the legislative assembly shall be on one sheet; the abstract of votes for the county and precinct officers shall be on one sheet, and it shall be the duty of the said county clerk immediately to make out a certificate of election to each of the persons having the highest number of votes for members of the legislative assembly, county and precinct officers, respectively, and to deliver said certificate to the person entitled to it, on his making application to the county clerk at his office: *Provided*, That when a tie shall exist between two or more persons for the council and house of representatives, the county clerk shall give notice to the sheriff of the county, who shall immediately advertise another election, giving at least ten days notice; and it shall be the duty of the county clerk of each county, on the receipt of the returns of any general or special election to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the board of commissioners at their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury. And immediately after canvassing the returns and making the abstracts of votes as provided in this section, the county clerk shall make a certified copy of each abstract and forward the same to the secretary of the territory.

§ 32. DUTY OF REGISTER IN CASE OF TIE.] If the requisite number of county officers shall not be elected, by reason of two or more persons having an equal and the highest number of votes for one and the same office, the county clerk whose duty it is to compare the polls, shall give notice to the several persons so having the highest and equal number of votes to attend at the office of the proper county clerk, at the time to be appointed by the said county clerk, who shall then and there proceed pub-

lily to decide by lot, which of the persons so having an equal number of votes, shall be declared duly elected, and the said county clerk shall make and deliver to the person thus declared duly elected a certificate of his election as hereinbefore provided.

§ 33. TERRITORIAL CANVASSERS—THEIR DUTIES.] And it shall be the duty of the secretary of the territory, with the chief justice and the governor, or a majority of them, to proceed within fifty days after the election, to canvass the votes for delegate to congress, and other territorial officers, and the governor shall grant a certificate of election to the person having the highest number of votes, and shall also issue a proclamation declaring the election of such person. In case there shall be no choice by reason of any two or more persons having an equal and the highest number of votes, the governor shall, by proclamation, order a new election; *Provided*, That if either of the persons mentioned in this section as canvassers be a candidate for delegate to congress, such person shall take no part in the canvass of said votes.

§ 34. WHEN RETURNS NOT RECEIVED—MESSENGER, HOW PAID.] That if the returns of election of any organized county in this territory, shall not be received at the office of the secretary of the territory within thirty days after the day of election, the said secretary shall forthwith send a messenger to the county clerk of such county, whose duty it shall be to furnish said messenger with a certified copy of such returns; and the said messenger shall be paid out of the treasury of the territory the sum of ten cents per mile for each mile he shall necessarily travel in going to and returning from the office of the said county clerk; and the territorial treasurer shall present a bill against the county not sending the election returns within time, to the office of the secretary of the territory, and such bill shall be presented to the board of county commissioners of such county for the whole amount paid to such messenger, and the county commissioners, when such bill is presented, shall allow the same in full, and shall issue a warrant for the amount of the bill so presented, and such warrant shall be paid in cash by the county treasurer of such county whenever the same is presented, or as soon thereafter as any money is received in such county treasurer's office.

§ 35. RESIGNATIONS AND VACANCIES.] Any person who shall receive a certificate of his election as a member of the council or house of representatives of the legislative assembly, sheriff, probate judge, register of deeds, coroner, or county commissioner, shall be at liberty to resign such office, though he may not have entered upon the execution of its duties, or taken the requisite oath of office; and when any vacancy shall happen in the office of the member of the council or house of representatives of the legislative assembly, by death, resignation or otherwise, it shall be the duty of the county clerk of the county in which the vacancy has occurred, to officially notify the governor thereof; whereupon the governor shall issue a writ of election, directed to the sheriff of the county or district in which such vacancy shall happen, commanding him to notify the several judges of election in his county or district, to hold a special election to fill such

vacancy or vacancies, at a time to be appointed by the governor: *Provided*, That if there be no session of the legislative assembly between the happening of such vacancy or vacancies and the time of the general election, it shall not be necessary to order a special election to fill such vacancy; and when any vacancy shall happen in the office of delegate to congress from this territory, it shall be the duty of the governor to issue his proclamation appointing a day to hold a special election to fill such vacancy.

§ 36. TWO COUNTIES ATTACHED.] When two or more counties are united in one council or representative district, the county clerk of the county last established shall, within twenty days after the day of election, attend at the office of the county clerk of the senior county, and in conjunction with the clerk of the senior county, or counties, shall compare the votes given in the several counties comprising such council or representative district, and said clerks shall immediately make out a certificate of the person or persons having the highest number of votes in such counties, for member or members of the council or house of representatives of the legislative assembly, which certificate shall be delivered to the person entitled to it, on his application to the register of deeds of the senior county, at his office. *Provided*, That the county of Cass be and is hereby declared the senior county in any district within which it is or may be included.

§ 37. DUTY OF GOVERNOR.] Should any vacancy happen in the office of members of the council or house of representatives of the legislative assembly, while in session, by death, resignation, removal, or otherwise, it shall be the duty of the governor immediately upon receiving official notification of the same, to proceed in the same manner as is prescribed for other cases in the thirty-fifth section of this act.

§ 38. COMPENSATION OF JUDGES, ETC.] There shall be allowed out of the county treasury of each county, to the several judges and clerks of election, two dollars per day, and the person carrying the poll books from the place of election to the county clerk's office, the sum of five cents per mile for going and returning.

§ 39. DIVIDED SUBSEQUENT TO ELECTION.] If a vacancy shall occur in the council or house of representatives in this territory, for any cause, and if the county or counties comprising the district in which such vacancy has happened, shall have been divided after the election of the member whose seat is vacant, and before the election to supply the vacancy, such election shall be ordered in every county in which any part of the original county or district may be situated; but no person shall be permitted to vote at such election who does not at the time reside within the limits of the organized county or district in which such vacancy occurred: *Provided*, That nothing herein contained shall be so construed as to permit any person to vote so residing within the limits, who has not the other qualifications of an elector.

§ 40. DUTY OF COUNTY CLERKS.] In cases of elections to fill vacancies, as provided for in this act, immediately after receiving the election returns from the several precincts, the county clerk shall, as provided in this act,

proceed to canvass the votes returned, and without delay forward to the secretary of the territory the copies of the abstracts of the same.

§ 41. COUNTY CLERK SHALL CANVASS RETURNS.] No election returns shall be refused by any county clerk for the reason that the same may be returned or delivered to him in any other than the manner directed in this chapter, nor shall he refuse to include any returns in his estimate of votes for any informality in holding an election, or making returns thereof; but all returns shall be received and the votes canvassed by such county clerk, and a certificate given to the person or persons who may, by such returns, have the greatest number of votes.

§ 42. PENALTY FOR VIOLATION.] If any judge or clerk of election, or county clerk, or any other person, in any manner concerned in conducting the election, shall corruptly violate any of the provisions of this chapter, he shall forfeit and pay to the county a sum not less than fifty nor more than five hundred dollars, to be recovered by a civil action in the name of the county commissioners of the proper county, which money, when collected, shall be for the support of the common schools in said county.

§ 43. PERSON ELECTED.] In all elections for the choice of any officer, unless it is otherwise expressly provided, the person having the highest number of votes for any office, shall be deemed to have been elected to that office.

§ 44. NO CIVIL PROCESS SERVED.] During the day on which any general, special, town, precinct, or charter election shall be held, no civil process shall be served on any elector entitled to vote at such election.

§ 45. CANVASSERS—HOW TO PROCEED—PENALTY.] The county clerk shall not construe the statutes concerning the canvassing of the election returns so as to decide all matters of law and fact himself, but the county clerk aforesaid, and the persons called to his assistance, shall constitute a board, a majority of whom shall decide all matters of disagreement, and the said board shall disregard technicalities and misspelling, the use of initial letters, or abbreviations of the name of candidates for office, if it can be ascertained from such votes for whom they are intended, but they shall not count votes polled in any place but at established precincts, and a breach of the provisions of this section shall be deemed a misdemeanor in office, and punished accordingly.

§ 46. POLL BOOKS—HOW DELIVERED.] It shall be the duty of the county clerk to provide uniform poll books for the use of his county, each poll book containing a copy of the law prescribing the qualifications of electors, and so much of this act as relates to the duties of judges and clerks of election, and the penalties imposed for offenses; also containing blanks for all entries required to be made in the said poll books, at the time the said clerk delivered notice for an election to the sheriff of his county, as provided for in this act; he shall also deliver to the sheriff two copies of said poll books for an election precinct, and the sheriff shall deliver the same into the hands of one of the judges of election, and the judges of election receiving the said poll books shall deliver or cause the same to be delivered to the clerks on the day of election.

§ 47. WHO ENTITLED TO VOTE.] Every male person above the age of twenty-one years, who shall have been a resident of the territory ninety days, twenty days in the county, and five days in the precinct, next preceding the election, who is a citizen of the United States, or who has declared upon his oath his intention to become such, and shall have taken an oath to support the constitution of the United States, and persons who have been declared by law to be citizens of the territory, and shall have complied with the provisions of any law which is now or may in future be in force relating to the registration of voters, shall be entitled to vote, and all persons possessing the qualifications mentioned in this section, and who have resided in this territory nine months, shall be eligible to any office in the said territory: *Provided, however,* That persons shall vote in the precincts where they reside, and not elsewhere.

§ 48. SECRETARY TRANSMITS BLANKS.] The secretary of the territory shall, at least thirty days before every general election, transmit to the county clerks of the several counties, blank forms and envelopes for all returns of votes required to be made to his office, with such printed directions on the envelopes as he deems necessary for the guidance and direction of such officers in making the returns according to law, and the expense of printing such blanks and envelopes shall be paid by the territory.

§ 49. SECRETARY TO INDORSE.] A memorandum of the date of the reception of all returns of votes at the secretary's office shall be made at said office on the envelope containing them.

## CHAPTER 28.

### REVENUE.

§ 1. GENERAL CLASSES OF TAXABLE PROPERTY.] All property, whether real or personal, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of persons residing in this territory, the property of corporations now existing or hereafter created, and the property of all banks or banking companies now existing or hereafter created, and of all bankers, except such property as is hereinafter expressly exempted, shall be subject to taxation; and such property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, or the value thereof, shall be entered on the list of taxable property, for that purpose in the manner prescribed by this chapter.

#### EXEMPTIONS.

§ 2. PROPERTY EXEMPT FROM TAXATION.] The following classes of property shall be exempt from taxation, and may be omitted from the list herein required to be given:

1. The property of the United States, and of this territory, including school lands.
2. The property of a county, incorporated city or village, or school district, when devoted to public use and not held nor used for pecuniary profit.
3. Public grounds, by whomsoever devoted to the public use, and including all places set apart for the burial of the dead.
4. The engine and implements used for the extinguishing of fires, with the grounds used exclusively for their buildings and for the meetings of fire companies.
5. The grounds and buildings of library, scientific, benevolent and religious institutions, or societies devoted solely to the appropriate objects of these institutions, not exceeding three acres in extent, and not leased nor otherwise used with a view to pecuniary profit.
6. The books, papers, furniture, scientific or other apparatus pertaining to the above institutions and used solely for the purpose above contemplated, and the like property of students in any such institutions used for the purpose of their education.
7. Moneys and credits belonging exclusively to such institutions, and devoted solely to sustaining them, but not to exceed in amount of total

valuation, aside from the property of students, as above mentioned, the sum prescribed in their charter or act of incorporation.

8. All animals not specified in the next section of this chapter.

9. Private libraries not exceeding one hundred dollars in value.

10. Family pictures.

11. The household furniture of each family, together with the beds and bedding thereof, and all wearing apparel of every person and family actually used for wearing, not to exceed in valuation two hundred dollars.

12. All food and fuel provided in kind, not to exceed provision for one year's time: *Provided*, That no person whom a compensation for board or lodging is received or expected shall be considered a member of a family within the intent and meaning of this chapter.

13. The polls or estates, or both, of persons who, by reason of age or infirmity, may, in the judgment of the assessor, be unable to contribute to the public charge, such opinion being subject to revision by the county board of equalization.

14. Any one-fourth part of any quarter section of prairie land, the same being a legal subdivision on which five acres of timber shall be planted, either by sowing seed or by setting trees or cuttings, and the same to be kept in growing order by cultivation, and not to be more than twelve feet apart each way, together with all improvements thereon, not to exceed in value one thousand dollars, and for a period of ten years from and after the planting of said timber, and any change of ownership of such land shall in no way affect the exemption from taxation as herein provided.

15. All improvements made on real property by setting out either forest or fruit trees, shrubbery or vineyards, which shall not be considered as increasing the value of the land for purposes of taxation.

16. All pensions from the United States, or from any of the states of the Union

#### TAXABLE PROPERTY.

§ 3. CLASSES OF PROPERTY SUBJECT TO TAXATION.] All other property, real and personal shall be subject to taxation in the manner provided in this chapter.

1. Lands and lots in towns and villages and cities, including lands bought from or donated by the United States and from the territory, and whether bought on credit or otherwise.

2. Ferry franchises and toll bridges, which for the purposes of this act are to be considered as real property.

3. Lands which are pledged as security for debt by mortgage or otherwise at their actual cash value without any regard whatever to the amount of any such mortgage or incumbrance.

4. Horses and neat cattle, mules and asses, sheep and swine.

5. Money, whether in possession or on deposit, and including bank bills.

6. All credits, whether money, property or labor due from solvent debtors on contract or in judgment, and whether within this territory or not. In making the amount of credits which any person is required to list for himself, or for any other person, company or corporation he shall be entitled to deduct from the gross amount of credits the amount of all bona fide debts owing by such person, company or corporation to any other person, company or corporation: *Provided*, That nothing in this section shall be so construed as to apply to any bank, company or corporation exercising banking powers or privileges or to authorize any deduction allowed by this section from the value of any other item of taxation than credits.

7. Mortgages and all other securities, promissory notes and accounts, whether bearing interest or not.

8. Stocks or shares in any bank or company incorporated by this territory, or any other state or territory, and situated in or transacting business in this territory.

9. All public stocks and loans.

10. All household furniture not exempted by the preceding section, and including gold and silver plate, musical instruments, watches and jewelry.

11. All private libraries, for their value over one hundred dollars.

12. All pleasure carriages, stage hacks, omnibusses, and other vehicles for transporting passengers.

13. All wagons, carts, drays, sleighs, and every other description of vehicles, or carriages, and all plows, harrows, reaping and mowing machines, harvesters, steam engines, horse powers, grain threshers, and separators, and all other implements and machinery appurtenant to agricultural labor.

14. Boats and vessels of every description, wherever registered or licensed, and whether navigating the waters of this territory solely or not, if owned wholly or in part by persons who are inhabitants of this territory, for the whole or part so owned by the inhabitant of this territory.

15. Annuities, but not including pensions from the United States or any other state of the Union.

16. All money or capital invested, or employed in manufactories, including buildings, machinery and materials.

17. All money or capital employed in merchandising.

18. All property, real and personal, within this territory, in possession of, or under the control of, or held for sale by any warehouseman, agent, factor or representative in any capacity, of any manufacturer, dealer, or other agent of any such manufacturer or dealer in agricultural implements or machinery, or other goods, wares or merchandise.

19. Personal property of every description belonging to persons or companies doing freighting or transportation business, and belonging wholly or in part to persons within this territory, for such part as is so owned by said persons.

20. All other property, real and personal, of any kind including improve-

ments on government lands, not specially exempted by the provisions of section two of this chapter.

#### MANNER OF LISTING PROPERTY.

§ 4. BOARD TO PROVIDE NOTICES AND FORMS.] On or before the twentieth day of January of each year, the board of county commissioners of each county shall provide for the use of the assessor, suitable notices and blank forms for the listing and assessment of all property, and such instructions as shall be needful to secure full and uniform assessment and returns; and a list of all the entered lands in his county or district, subject to taxation.

§ 5. CLASSES AND KINDS OF PROPERTY EACH PERSON TO LIST.] The list of taxable property assessed to each person shall contain:

1. His lands by township, range and section, and any division or part of a section or numbered fractional lot of any section lying in the county in which the list is required. And when such parcel of land is not a congressional division or subdivision, it shall be listed and described in some other mode sufficient to identify it.

2. His town lots, naming the town in which they are situated, and their proper description by number and block, or otherwise, according to the system of numbering in the town.

3. His right and title in any ferry franchise, toll bridge, or part thereof, by the total and actual cash value of the same.

4. Amount of capital employed in merchandising or manufacturing, including all buildings, machinery and appurtenances thereto.

5. Number of horses.

6. Number of mules and asses.

7. Number of neat cattle, over one year of age.

8. Number of sheep over three months old.

9. Number of swine over three months old.

10. Number of carriages and vehicles of every description.

11. Amount of money and credits, including actual and total cash value of all such credits, notes and accounts due.

12. Amount of taxable household furniture.

13. Amount of stock or shares in any incorporated company, or company not incorporated.

14. Amount of all property, machinery or merchandise held and controlled as agent of any manufacturing company or agent thereof.

15. All real property sold by any party or corporation under any form of grant or conveyance, or contract therefor, of which the vender had or has an inchoate contingent or equitable title, right or claim, and which is in the name, possession or use of any vendee who has voluntarily taken such grant or contracts for such title, right or claim: *Provided, That* nothing herein shall be construed so as to affect or impair any right of a person holding or claiming lands from the United States under the homestead or pre-emption laws.

16. All other property not specially enumerated in this section by its actual cash value, except such as is specially exempted by section two of this chapter.

§ 6. BOARD MAY EXTEND LIST.] The abovelist of items may be extended at the discretion of the board of county commissioners so as to obtain such facts as they may deem desirable.

§ 7. ASSESSMENT TO BEGIN.] The assessor shall in no case commence assessing before the first Monday in February of each year.

§ 8. ALL TAXABLE PROPERTY LISTED—ASSESSOR'S POWER—REFUSAL.] All taxable property, real and personal, shall be listed and assessed each year in the name of the owner thereof as soon as practicable on or after the first Monday in February at its actual cash value at the place of listing on the first day of February, including all property purchased on that day. And in order to make the assessment such assessor shall demand from each person and firm, and from the president, cashier, treasurer or managing agent of each corporation, association or company within his county, a statement, under oath or affirmation, of all the real estate within the county, and personal property, owned by, claimed, or in the use, possession or control of such person, firm, corporation, association or company. If any person, firm, officer or agent shall neglect or refuse, on demand of the assessor, to give, under oath or affirmation, the statement required by this section the assessor shall ascertain and estimate from the best information he can obtain the number, amount and cash value of all the several species of property required, and shall list the same accordingly, and the value so fixed by the assessor shall not be reduced by the county board of equalization.

§ 9. UNKNOWN OWNERS—OATH TO LIST.] If the owner of any property not listed by another person shall be absent or unknown the assessor shall ascertain and estimate the value thereof, and if the name of such owner be known to the assessor the property shall be assessed in his, her or their name; if unknown to the assessor the property shall be assessed to "unknown owners." The list shall be signed and sworn to by the person making it and the oath thereto may be administered by the assessor or his deputy, or by any other officer authorized to administer oaths, and shall be certified by him, and the oath may be printed upon the blank form, and shall be in substance as follows:

I, A B, do solemnly swear (or affirm) that I have listed above and within all the lands, town and city lots, personal property, money and credits, subject by law to taxation, and owned, used, possessed or controlled by me, or by law required to be listed by me for any other person or persons, as guardian, husband, parent, trustee, executor, administrator, receiver, accounting officer, partner, factor, bailee or agent, according to the best of my knowledge.

§ 10. ASSESSOR MAY REQUIRE OATH OF OWNER, OR OTHER PERSON—PENALTY.] In case any person required to render the list under oath fails or refuses to do so, the assessor, in order to perform his duty, as required in section eight of this chapter, may examine on oath any person whom he supposes to have knowledge in relation to the property required to be listed; and if any such person refuse to testify when so required he shall forfeit the sum of five dollars, to be recovered in a civil action in the name and to

the use of the proper county ; and the assessor shall make a minute of the names of persons refusing to swear to such list, or to testify in relation to property, and shall note the same on the list, and return the same to the board of county commissioners, and the county board of equalization shall add fifty per cent. thereof to the amount in value of property returned by the assessor as the list of the person so refusing to swear or affirm.

§ 11. LIST OF REFUSALS TO SWEAR.] The said statements of persons refusing to swear, shall be endorsed with the name of the person whose property is therein listed, and the assessors shall file them in alphabetical order, and return them to the office of the county clerk by the first Monday of May next ensuing, at which time, or before, he shall also prepare and deliver his assessment roll. All property is to be valued by the assessor, except such as is herein required to be valued by the owner, agent or other person having control of the same.

§ 12. ASSESSOR'S OATH TO ROLL.] The assessor shall take and subscribe an oath, to be certified by the officer administering it, and attached to the assessment roll, which oath is to be in substance as follows :

I, A. B., county or township assessor, in and for the.....county, Dakota Territory, do solemnly swear that the value of all property, moneys and credits, of which a statement has been made and verified by the oath of the person required to list the same, is hereby truly returned, as set forth in such statement, that in every case where I have been required to ascertain the amount of value of the property of any person or body corporate, I have diligently and by the best means in my power endeavored to ascertain the true amount and value, and that, as I verily believe, the full value therefor is set forth in the above returns. And that in no case have I knowingly omitted to demand of any person of whom I was required to make it, a statement of the amount and value of his property which he was required by law to list, nor have I connived at any violation or evasion of any of the requirements of the law in relation to the assessments of property for taxation.

§ 13. SWORN FALSE LIST, PERJURY.] If any person shall willfully make or give under oath or affirmation, a false list of his, her or their taxable property, or a false list of the taxable property in the use or possession, or under the control of him, her or them, and required by law to be listed by him, her or them, such person shall be deemed guilty of perjury; and upon conviction thereof shall be punished therefor as is by law provided for the punishment of perjury.

§ 14. CREDITS DEFINED.] The term "credits," as used in this act, includes every claim and demand for money, labor, or other valuable thing. And every annuity or sum of money receivable at stated periods, and all moneys in property of any kind, and secured by deed, mortgage, or otherwise; but pensions from the United States, or any state, are not included in the above terms.

#### BY WHOM AND WHERE LISTED.

§ 15. EVERY INHABITANT, UNLESS EXCEPTED, TO LIST.] Every inhabitant of this territory, of full age and sound mind, unless excepted by the provisions of this act, shall list all property subject to taxation in this territory of which he is the owner, or has the control or management in the manner herein directed; but the property of a ward is to be listed by his guardian; of a minor, having no other guardian, by his father, if

living; if not, then by his mother, if living; if not, then by the person having the property in charge; of a married woman, by her husband; but if he be unable or refuse, then by herself; of a beneficiary for whom property is held in trust, by the trustee; and the personal property of a decedant, by the executor, administrator, or heirs; of a body corporate, company, society or partnership, by the principal accounting officer, agent or partner; property under mortgage or lease, to be listed by and taxed to the mortgagor or lessor, unless it be listed by the mortgagee or lessee.

§ 16. COMMISSION MERCHANTS, ETC.] Commission merchants, and all persons trading or dealing on commission, and consignees authorized to sell, when the owner of the goods does not reside in this territory, are, for the purpose of taxation, required to list all the property in their possession.

§ 17. PROPERTY LISTED, ASSESSED AND TAXED—WHEN—WHERE.] All personal property is to be listed, assessed and taxed in the county where the owner resides, on the first of February of the then current year, or where the property is kept. But if the owner resides out of the territory, it is to be listed and taxed where it may be at the time of listing. And if the agent or person having charge of such property neglects to list it, he will be subject to the penalty hereinafter provided.

§ 18. LIST IN BEHALF OF ANOTHER.] A person required to list property in behalf of another, shall list in the same county or township in which he would be required to list if it were his own, except as herein otherwise directed. But he must list it separate from his own, naming the person to whom it belongs. But the undivided property of a person deceased, belonging to his heirs, may be listed as belonging to such heirs, without enumerating them.

§ 19. HOW COMPANIES TO LIST PROPERTY AND MONEY—DUTY OF AUDITOR AND COMMISSIONER.] The president, secretary, superintendent, or other principal accounting officer within the territory at the time of the assessment, of every railroad company, turnpike company, plank road company, bridge or ferry company, insurance company, telegraph company, or any other joint stock company, except banking or other corporations whose taxation is specifically provided for in this chapter, for whatever purpose they may have been created, whether incorporated by any law of this territory or not, where any portion of said property, at the time of the assessment, is situated in more than one county, shall list for taxation, verified by the oath or affirmation by the person so listing, all the personal property, which shall be held to include road bed, depots, wood and water stations, poles and wire, bridge and boats, books, papers, office furniture and fixtures, and such other realty as is necessary for the daily business operations of said road, bridge, insurance or other incorporation. Moneys and credits of such company or corporations within the territory, at the actual value in money, in manner following, to wit: In all cases, except as hereinafter provided, a full return of all property shall be made to the auditor of the territory, on or before the first Monday of February, annually, together with a statement of the amount of such property, which is situated in each organized county, precinct or township, incorporated

village or city therein. The value of all movable property shall be added to the stationary and fixed property: *Provided*, That whenever the whole of the property of any company aforesaid, shall be in one county only, the return shall be made to the assessor or assessors, in the same manner as returns of other property are made. If the return, aforesaid, shall not be received by said auditor within ten days after the first Monday in February, aforesaid, it shall be the duty of the auditor to procure the information aforesaid, in any manner that may appear to be most likely to secure the same correctly, and for that purpose shall address a written request to the officer who has omitted or neglected to make the return aforesaid; and it shall be the duty of the auditor, on or before the first Monday of April, or so soon thereafter as he shall have procured the necessary information, to certify to the county clerks of the several counties in which said property, or any part thereof, shall be situated, the amounts thereof, specifying the several amounts included in each organized county or township, incorporated city or village in said county, which amounts, when so received by the several county clerks, shall be placed on the list of taxable property returned to them by the several assessors for such county or townships, incorporated cities or villages. The auditor shall certify whether the return was made by the proper officer, or whether the valuation was procured by himself; and it shall be the duty of the county commissioners to equalize the valuation of such property in the same manner as of other property, and if the return has not been made by the proper officer at the proper time, as required by this act, it shall be the duty of said county commissioners to add, not exceeding fifty per cent., to the valuation thus before them: *Provided*, That shares of stock in all national banks, held by any person or persons in the territory, shall be assessed at their par value, and the owner or owners thereof shall be required to pay tax thereon the same as though they were shares in banks chartered and incorporated by the laws of the territory, or by the laws of any other state or territory of the United States; *And provided, further*, That for the purposes of taxation no discrimination shall be made between any national bank and any other bank doing business in this territory under the laws thereof.

§ 20. PERSONS DOING BUSINESS IN MORE THAN ONE COUNTY.] When a person is doing business in more than one county, the property and credits existing in any one of the counties are to be listed and taxed in that county; and credits not existing in, nor pertaining especially to the business in any one county, are to be listed and taxed in that county where his principal place of business may be; each individual of a partnership is liable for the taxes due from the firm.

§ 21. INSURANCE COMPANIES.] Insurance companies, of every description, transacting business in this territory, shall be taxed in the same amount and at the same rate that all other property is taxed, upon the amount of premiums taken by them during the year previous to the listing in the county where the agent conducts the business. And the agent shall render the list, and shall be personally liable for the tax, and if he refuses to

render the list, or to swear as herein required, the amount may be assessed according to the best knowledge and discretion of the assessor, and the county board of equalization may at their discretion, add fifty per cent. to the amount returned by the assessor.

§ 22. DEPRECIATED BANK NOTES.] Depreciated bank notes and depreciated stocks, or shares in corporations or companies, may be listed at their current value and rate; credits shall be listed at such sums as the person listing them believes will be received, or can be collected, and annuities at the value which the person listing believes them to be worth in money.

§ 23. ENTITLED TO DEDUCT BONA FIDE DEBTS ONLY.] In making up the amounts of credits which any person is required to list he will be entitled to deduct from the gross amount the amount of bona fide debts owing by him, but no acknowledgment made for the purpose of being so deducted shall be considered a debt within the intent of this section, and so much only of any liability of such person as security for another shall be deducted as the person making the list believes he is legally or equitably bound to pay, and so much only as he believes he will be compelled to pay on account of the inability of the principal debtor. And if there are other sureties able to contribute then so much only shall be deducted as he in whose behalf the list is made will be bound to pay or contribute: but no person will be entitled to a deduction on account of an obligation of any kind given to an insurance company for the premium of insurance; nor on account of an unpaid subscription to any society; nor on account of a subscription to or installments payable on the capital stock of any company or corporation, nor upon any account whatever, unless such deduction be made from the amount of moneys or credits, or both, by such person listed.

§ 24. DEFINITION OF MERCHANT.] Any person owning or having in his possession or control in this territory, with authority to sell the same, any personal property, purchased either within or out of the territory, with a view of selling the same at an advance price or profit, or which has been consigned to him for the purpose of being sold within the territory, shall be held to be a merchant for the purposes of this act; such property shall be listed for taxation, and in estimating the value thereof, the merchant shall take the value of such property in his possession or control on the first day of February.

§ 25. HELD AS MANUFACTURER—WHEN.] Any person who purchases, receives or holds personal property of any description for the purpose of adding value thereto by any process of manufacturing, refining, purifying, or by the combination of different materials with a view of making gain or profit by so doing, and by selling the same, shall be held to be a manufacturer for the purposes of this act, and he shall list for taxation the value of such property in his hands estimated as directed in the previous section in case of merchants, but the value shall be estimated upon the materials only entering into the combination or manufacture.

#### OF ASSESSMENT ROLL.

§ 26. MAKING AND DELIVERY OF ROLL—CONTENTS—FORM.] On or before the first Monday of May, annually, the several county assessor shall

make out and deliver to the county clerk an assessment roll, consisting of the following items, to-wit:

1. A list of all the taxable lands in such county in numerical order, beginning with the lowest numbered section, in the lowest numbered township, in the lowest numbered range in the county, and ending in the highest numbered section, township and range, with the number of acres in each tract set opposite the same in a column, provided for that purpose, and the assessed value thereof in another column, and the name of the owner or person listing the same in another column, with the columns of acres and values footed up. Also stating the number of the school and road district in which such property and the owner thereof is situated. Such list shall be as nearly as practicable in the following form:

RETURN OF TAXABLE LANDS IN ..... COUNTY, DAKOTA, AS ASSESSED FOR THE YEAR 18...

Part of Section.	Section.	Township.	Range.	Acres.	Value.	Owners' Name.

2. A list of all the town lots in each town or city in each county, in like numerical order, with the valuation of each lot or part of lot, and the name of the person listing the same, opposite with the column of values footed up substantially in the following form:

RETURN OF LOTS IN THE CITY (OR TOWN) OF ....., IN ..... COUNTY, DAKOTA, ASSESSED FOR THE YEAR 18...

Block.	Lot.	Value.	Owner.

3. A list in alphabetical order of all the persons and bodies corporate in whose names any property or anything taxable other than the real estate, has been listed, with a sufficient number of columns opposite each name in which to enter the numbers or values, or both, of the several species of property or other interests required by law to be listed, with the columns of numbers and values footed up. Such list shall be as nearly as practicable in the following form, to-wit:

RETURN OF PERSONAL PROPERTY IN ..... COUNTY, DAKOTA, ASSESSED FOR THE YEAR 18...

NAMES.	Merchandise.....	Manufactures.....	Horses.....	Value.....	Mules and Asses.....	Value.....	Cattle.....	Value.....	Sheep.....	Value.....	Swine.....	Value.....	Carriages.....	Value.....	Money and Credits.....	Household Furniture.....	Stock or Shares.....	Other Personally.....	Total.....	Poll Tax.....	REMARKS.

REFUSAL TO LIST.

§ 27. RETURN OF REFUSALS TO SWEAR.] In every case where a person is required to list property for himself, or in behalf of another, if he shall neglect or refuse to list the same, the assessor shall proceed as directed in section ten of this chapter, and in the return of personal property, opposite the name of such person, he shall write the words "by the assessor," when the list was made by himself or his deputy, together with the words "absent," or "sick," or "refused to swear," or such other words as will express the cause why the person required to make the list did not make it; and a neglect to make it shall be taken as a refusal to do so.

COUNTY BOARD OF EQUALIZATION.

§ 28. COMMISSIONERS CONSTITUTE BOARD—POWERS—LIMITATION.] The board of county commissioners of each county shall constitute a board of equalization for the county, and said board or a majority of the numbers thereof, shall hold a session of not less than two days at the county seat, commencing on the first Monday of May in each year, for the purpose of equalizing and correcting the assessment roll in their county; and in order to equalize and correct such assessment roll, they may change the valuation and assessment of any property real or personal upon the roll, by increasing or diminishing the assessed valuation thereof as shall be reasonable and just, to render taxation uniform: *Provided*, That the aggregate assessment shall not be materially changed thereby.

§ 29. FURTHER POWERS EQUALIZING BOARD.] The said board of equalization must also place upon and add to the assessment roll any property real or personal, subject to taxation, which has been omitted therefrom by the owner or by the assessor, and enter for the same a reasonable, just and uniform taxation. During the session of said board any person, or his attorney or agent, feeling aggrieved by anything in the assessment roll may apply to the board for the correction of any alleged errors in the listing or valuation of his property, whether real or personal, and the board may correct the same as shall be just, and if any person returned as refusing to render a list, or to be sworn thereto, or to the list of the property of another returnable by him, can show good cause for such failure or refusal the penalty herein provided may be remitted: *Provided*, That in equalizing the assessment of all property, personal and real, said board must be governed by the value of such property on the first day of February preceding, or, if that cannot be reasonably and justly ascertained, by its average value during the year preceding.

§ 30. CLERK OF BOARD.] The county clerk of the county shall be the clerk of said board of equalization for the county.

#### ABSTRACT OF ASSESSMENT ROLL.

§ 31. CLERK MAKES AND FORWARDS ABSTRACT TO AUDITOR.] As soon as practicable after the assessment rolls are equalized and corrected, as provided in the two preceding sections, and before the third Monday of May next ensuing, the county clerk shall make out an abstract thereof, containing the whole number of acres of land listed in the county and the total value thereof.

The total valuation of town lots.

The amount of property invested in merchandise.

The amount of property invested in manufactures.

The number of horses and their total value.

The number of mules and asses, and their total value.

The number of cattle and their total value.

The number of sheep and their total value.

The number of swine and their total value.

The number of carriages and vehicles of every kind, and their total value.

The total value of money and credits.

The total value of household furniture.

The total value of stock or shares.

The total value of all other personalty not enumerated under the foregoing heads, and the number of polls.

Which abstract the clerk is directed to transmit without delay to the auditor of the territory, and the county commissioners are authorized to direct the clerk to add to the above list of items such other items as they may deem advisable: and it shall be the duty of the auditor of the territory to furnish such forms for the use of the county commissioners.

assessors, clerks, and other officers of the revenue, as shall secure uniformity of proceedings and returns throughout the territory.

TERRITORIAL BOARD OF EQUALIZATION.

§ 32. WHO CONSTITUTE—MEETING—DUTIES.] The governor, territorial auditor and treasurer, shall constitute the territorial "board of equalization," (or the majority of them) and said board of equalization shall hold a session at the capital of the territory, commencing on the second Monday of June of each year, and it shall be the duty of said board to examine the various county assessments, and to decide upon the rate of the territorial tax, to be levied for the current year, together with any other general or special territorial taxes required by law to be levied, and to equalize the levy of such taxes throughout the territory; but such equalization shall be made by varying the rate of taxation on the different counties, in case the said board of equalization are satisfied that the scale of valuation has not been adjusted with reasonable uniformity by the different assessors.

RATE OF TAXATION AND LEVY OF SAME.

§ 33. TERRITORIAL, COUNTY AND SPECIAL TAXES LIMITED.] The rate of the general territorial tax shall not be less than one-half mill, nor more than five mills on the dollar valuation; for ordinary county revenue, including the support of the poor, not more than four mills on the dollar; for roads and bridges, a poll tax of one dollar and a half, or one day's work, on every male person between the ages of twenty-one and fifty years; a bridge tax not to exceed two mills on the dollar; and a road tax not exceeding two mills on the dollar valuation, to be paid in money or in labor at the rate of one dollar and fifty cents per day, at the option of the person so taxed, and the certificate that the person named therein has actually performed eight hours labor for each day's work so certified, shall be received by the county treasurer in discharge of said tax to the amount so certified. For county sinking fund, such rate as in the estimation of the board of county commissioners, will pay one year's interest on all the outstanding debt on the county, with fifteen per cent. on the principal.

§ 34. AUDITOR TRANSMITS RATE OF TERRITORIAL TAX.] On or before the third Monday in June in each year, the territorial auditor is required to transmit to the county clerk of each county, a statement of the rate of taxation required in said county for the general territorial tax, as directed to be levied and collected by the territorial board of equalization. Should the territorial board of equalization fail to fix the rate of taxation, in any or all of the counties, then the auditor is required to notify the county clerk of the rate to be levied and collected in such county or counties which must not exceed two mills on the dollar of valuation and must be in even mills, or in mills and tenths of mills, and uniform for all the counties.

§ 35. COUNTY TAX WHEN LEVIED. On the first Monday in July of each year, the board of county commissioners must meet at the county seat to

levy the necessary taxes for the current fiscal year, and they may levy the taxes at any time after the said first Monday of July, if the statement from the territorial board of equalization has not then been received; but such levy must not be postponed for more than ten days, and they shall levy the taxes as herein directed.

§ 36. TERRITORIAL TAX THREE MILLS, WHEN.] The rate of the general territorial tax shall be as directed by the territorial board of equalization, or by the territorial auditor, but in case the statement of the levy of such taxes, as hereinbefore directed, has not been received by the county clerk within ten days after the said first Monday in July, then the said board of county commissioners shall levy the general territorial tax at the rate of three mills on the dollar of valuation.

§ 37. CLERK MAKES LIST—CONTENTS—ORDER.] As soon as practicable after the taxes are levied, the county clerk shall make out a tax list containing:

1. A list in alphabetical order of all the persons and bodies corporate in whose name any property other than real estate has been listed with the amount or valuation thereof in a separate column opposite the name, and total amount of all the taxes carried out in another column.

2. A list of all the taxable lands in the county (not including town lots) in numerical order, commencing with the lowest numbered section in the lowest numbered township in the lowest numbered range in the county, and ending with the highest numbered section, township and range, with the names of the persons or parties in whose name each subdivision was listed opposite each subdivision on the margin or in a column provided for that purpose, with valuation of each tract, and several species of taxes and the total of all the taxes carried out in separate columns opposite each tract in the same manner as provided in the alphabetical list of names.

3. A list of the city or town lots in each city or town in the county, commencing with the lowest number and ending with the highest number in each city or town, with the name of the person or party listing each lot or part of lot opposite the same, and the valuation and several species of taxes and total taxes carried out in separate columns in the same manner as hereinbefore provided in respect to personal property and lands.

§ 38. DUPLICATE LIST FOR TREASURER.] The tax list when completed, shall be kept by the county clerk as the property of the county. The clerk shall also prepare a duplicate of the tax list of his county, and deliver the same to the county treasurer on or before the first day of October following, the date of the levy for the current year.

§ 39. FORM OF LIST AND DUPLICATE.] The tax list and duplicate shall be as nearly as practicable in the following form, to-wit:

TAX LIST FOR 18.., ..... COUNTY, DAKOTA.

NAMES.	Part of Section.....	Section.....	Township.....	Range.....	Acres.....	Value.....	Name of Town.....	Lot.....	Block.....	Value.....	Personalty.....	Territorial Tax.....	County Tax.....	County Sinking Fund Tax..	Land Road Tax.....	Poll Tax.....	District School Tax.....	Total.....	REMARKS.

§ 40. ENTRY REQUIRED ON LIST AND DUPLICATE.] An entry is required to be made upon the tax list and its duplicate, showing what it is, and for what county and year it is, and the county commissioners shall attach to the lists their warrants under their hand and official seal, in general terms, requiring the treasurer to collect the taxes therein levied according to law; and no informality in the foregoing requirements shall render any proceedings for the collection of taxes illegal; the county clerk shall take the receipt of the county treasurer on delivering to him the duplicate tax list with the warrant of the county commissioners attached, and such list shall be full and sufficient authority for the collection by the treasurer of all taxes therein contained.

COUNTY TREASURER, AND HIS DUTIES.

§ 41. COUNTY TREASURER COLLECTOR OF TAXES.] The county treasurer of each county shall attend at the county seat at all times, to receive the taxes not yet paid, and he is also authorized and required to collect, so far as practicable the taxes remaining unpaid on the list of the former year or years. In all cases where taxes are paid, he shall give a receipt to the person paying the same.

§ 42. WARRANTS RECEIVABLE TO FUND DRAWN ON.] Territorial warrants are receivable for the amount payable into the territorial treasury, on account of the general territorial tax, and county warrants are receivable at the treasury of the proper county for the amount of county tax payable

into the county treasury, except when otherwise provided by law; and city warrants shall be received for city taxes, and school warrants shall be received for school taxes in the districts where such warrants are issued; but United States treasury notes, or their equivalent, only are receivable for such taxes as are or may be required by law to be paid in cash; and road and poll taxes may be discharged, as provided in section thirty-three.

§ 43. **TREASURER'S RECEIPTS DUPLICATES.**] Whenever any taxes are paid to the county treasurer, the treasurer shall make out duplicate receipts for the same, which duplicate receipts shall correspond in number, date, amount, and in every respect shall be precise copies of each other, one of which shall be delivered to the person paying such taxes, and the other shall within one month be filed by the treasurer, with the county clerk, and such duplicate receipts shall specify the land or other property on which such tax was assessed according to its description on the tax duplicate, or in some sufficient manner, and shall also specify the amount of each separate and distinct fund, in separate or distinct lines or columns, and whether the said separate or distinct funds were paid in cash or in territorial warrants, county or road order, or supervisors' receipts, as the case may be.

§ 44. **FORM OF RECEIPT.**] The tax receipt and duplicate shall be substantially in the following form, to wit :

No. .... § .....

TREASURER'S OFFICE, ..... COUNTY, DAKOTA, }  
 ..... 18 ... }

Received of ....., ..... dollars, in full of the following taxes for the year 18.., on annexed property or real estate.

Part of Section or Name of Town.	Section or Lot.	Town or Block.	Range or Lot.	Acres or Block.	KIND OF TAX.	AMOUNT OF TAXES.			Total.
						Paid in Cash.	Paid In War'nts	Inter-est.	
					Territorial.				
					County.				
					Road.				
					Poll.				
					School.				
					Advertising.				

§ 45. **CLERK AUDITS DUPLICATE.**] It shall be the duty of the county clerk, on receiving any duplicate tax receipt from the treasurer, forthwith to examine the same and compare it with the tax list in his possession, and see if the total amount of taxes and the several amounts of the different funds are correctly entered and set forth in such receipt, and in case it shall appear that the treasurer has not collected the full amount of taxes and interest which, according to the tax list and the terms of the receipt

he should have collected, then the county clerk shall forthwith charge the treasurer with the amount such receipt falls short of the true amount, and the treasurer shall be liable on his official bond to account for and pay over the same.

§ 46. RECEIPTS NUMBERED CONSECUTIVELY.] All tax receipts issued by the county treasurer shall be numbered consecutively, commencing with number one on the first receipt issued for the taxes of any one year, and he shall not receipt for more than one year's taxes on the same property in one tax receipt, but shall keep a separate and distinct series of numbers of receipts issued for the taxes of each year for which the same have been levied and assessed in this territory.

§ 47. WHAT TREASURER SHALL WRITE ON DUPLICATE.] Whenever any taxes are paid the treasurer shall write on the tax duplicate opposite the description of the real estate or property whereon the same were levied, the word "paid," together with the date of such payment and the name of the person paying the same, and the county clerk on receiving the duplicate receipt shall forthwith make the same entries on the tax list in his possession.

§ 48. TREASURER TO KEEP A CASH BOOK.] The county treasurer is required to keep a cash book, in which he shall enter an account of all money by him received specifying in proper columns provided for that purpose the date of the payment, the number of the receipt issued therefor, by whom paid, and on account of what fund or funds the same was paid, whether territorial, county, school, road, sinking fund, or otherwise, and the amount paid in warrants, orders or receipts, each in a separate column, and the total amount for which the receipt was given in another column, and the treasurer shall keep his account of money received for and on account of taxes, separate and distinct from moneys received on any other account, and shall also keep his account of money received for and on account of taxes levied and assessed for any one year, separate and distinct from those levied and assessed for any other year, and all entries in said cash book of money received for taxes shall be in the numerical order of the receipts issued therefor.

§ 49. MISCELLANEOUS DUPLICATE RECEIPTS.] Whenever the treasurer receives money, warrants or orders on account of licenses, fines or any other account except taxes, he shall make out duplicate receipts for the same, and deliver one to the person making such payment, and the other to the county clerk, as provided in the case of tax receipts, and shall forthwith enter the same in his cash book as in case of money received for taxes, but in a separate place and with a separate and distinct series of numbers of receipts issued therefor.

§ 50. FORM OF CASH BOOK.] The cash book above provided for shall be as nearly as practicable in the following form, to-wit:

TREASURER'S CASH BOOK, . . . . . COUNTY, DAKOTA.

Date..... Number of receipt... By whom paid.....	Territorial Fund.		County Fund.		Co. Sinking F'd.		Land Road F'd.		Poll Fund.			District School Fund. Advertising Fees..... Total..... Remarks.....	
	Paid in cash...	Paid in war-rants.	Paid in cash...	Paid in war-rants.	Paid in cash...	Paid in war-rants.	Paid in cash...	Pd in warrants	P'd in receipts.	Paid in cash...	P'd in warrants		P'd in receipts.

§ 51. CLERK'S DUPLICATE OF TREASURER'S CASH BOOK.] The county clerk is required to keep a duplicate of the treasurer's cash book, and to enter therein all duplicate receipts by him received from the treasurer, in the same manner and form as the treasurer is required to enter the same.

§ 52. ERRORS AND OMISSIONS.] If on the assessment roll or tax list there be any error in the name of the person assessed or taxed, the name may be changed, and the tax collected from the person intended, if he be taxable and can be identified by the assessor or treasurer; and when the treasurer, after the tax list is committed to him, shall ascertain that any land or other property is omitted, he shall report the fact to the county clerk, who upon being satisfied thereof, shall enter the same upon his assessment roll, and assess the value, and the treasurer shall enter it upon the tax list, and collect the tax as in other cases.

§ 53. DEMAND FOR TAXES NOT NECESSARY.] No demand of taxes shall be necessary, but it shall be the duty of every person subject to taxation under this law to attend at the treasurer's office at the county seat and pay his taxes; and if any person neglect so to attend and pay his taxes until after the first day of November next succeeding the levying of the taxes, the treasurer is directed and required to collect the same by distress and sale; *Provided*, That in case any person having only personal property assessed and upon which the taxes are unpaid, shall, in the opinion of the treasurer, be about to move out of the county, it shall be the duty of the treasurer to collect such taxes at any time after the tax duplicate has been placed in his hands.

DELINQUENCY, PENALTY AND LIEN OF TAXES.

§ 54. TAXES DELINQUENT—WHEN.] On the first Monday of January of the year after which taxes shall have been assessed, all unpaid taxes shall become delinquent, and shall draw interest at the rate of ten per cent. per annum from the date of such delinquency.

§ 55. TEN PER CENT. PENALTY.] To all taxes which remained unpaid at the time the same became delinquent, there shall be added as a penalty, ten per cent on the amount so remaining unpaid, which shall be added to the amount assessed, and collected by the county treasurer.

§ 56. LIEN OF TAXES DEFINED.] Taxes upon real property are hereby made a perpetual lien thereupon against all persons and bodies corporate

except the United States and the territory, and taxes due from any person upon personal property shall be a lien upon any real property owned by such person, or to which he may acquire a title. All taxes shall, as between vendor and purchaser, become a lien upon real estate on and after the first day of October in each year.

COLLECTION BY DISTRESS.

§ 57. **DISTRAINED GOODS AT EXPENSE OF THE OWNER.]** When the treasurer distrains personal property, he may keep it at the expense of the owner, and he shall give notice of the time of the sale within five days after the day of the taking, in the manner that constables are required to give notice of the time of the sale of personal property on execution; and the time of the sale shall not be more than ten days from the day of the taking, but he may adjourn the sale from time to time for a period not to exceed three days, and shall adjourn once at least when there are no bidders: and in case of an adjournment, he shall put up a notice thereof at the place of sale. Any surplus remaining above the taxes, charges for keeping, fees for sale, fees for levying on the property, and mileage, to be the same as allowed by law to sheriffs for levying an execution on personal property, shall be returned to the owner, and the treasurer shall, on demand, render an account in writing of the sale and charges.

§ 58. **IN CASE TREASURER BE RESISTED IN EXECUTION OF DUTY.]** If the treasurer be resisted or impeded in the execution of his office, he may require any suitable person or persons to aid him therein, and if any such person refuse to aid, he shall forfeit a sum not exceeding ten dollars, to be recovered by civil action in the name and for the use of the county, and the person or persons resisting shall be liable, as in the case of resisting the sheriff in the execution of civil process.

§ 59. **TAXES RECEIVABLE TILL OTHERWISE COLLECTED.]** The treasurer shall continue to receive payment of all taxes after the first day of November, upon the above terms, until collected by distress and sale.

TAX SALE.

§ 60. **TREASURER ADDS LOCAL TAXES.]** Whenever, in the collection of any district, town, city or local tax, which may have been levied according to law, the collector is not able to make the tax by distress and sale of personal property, and real estate is to be sold for the same, it shall be the duty of the collector of the tax to send such delinquent list to the county treasurer on or before the fifteenth day of July of each year, and the county treasurer shall receive the delinquent list, and advertise the same at the same time he advertises the sale of real estate for delinquent taxes, as hereinafter provided, by adding the amount of such delinquent district, town, city or local tax to the amount of delinquent territorial, county and other taxes, and shall sell such lands for the purpose of paying all such delinquent taxes as hereinafter directed, and shall credit the proper district, town, city or locality for the amount of taxes so collected, which shall be subject to the order of the proper collecting officer.

§ 61. TREASURER'S NOTICE OF SALE.] The treasurer shall give notice of the sale of real property, by publication thereof once a week for three consecutive weeks, commencing the first week in August preceding the sale, in a newspaper in his county, if there be one, and if there be no paper published in his county, shall give notice by a written or printed notice posted on the door of the court house, or building in which courts are commonly held, or the usual place of meeting of the county commissioners, for three weeks previous to the sale; such notice shall contain a notification that all lands, on which the taxes of the preceding year (naming it) remain unpaid, will be sold, and the time and place of the sale, and said notice must contain a list of the lands to be sold, and the amount of taxes due. The treasurer shall add to each description of land so advertised, the sum of ten cents for each description other than town lot, and for each town lot the sum of five cents, to defray the expenses of advertising, which amount shall be paid by the county treasurer at the expiration of the sale, upon the affidavit of the publisher.

§ 62. SHALL OFFER LANDS FOR SALE.] That on the first Monday of September in each year, between the hours of nine o'clock, A. M., and four o'clock, P. M., the treasurer is directed to offer at public sale, at the court house, or place of holding courts in his county, or at the treasurer's office, where, by law, the taxes are made payable, all lands, town lots, or other real property, which shall be liable for taxes of any description for the preceding year or years, and which shall remain due and unpaid, and he may adjourn the sale from day to day until all the lands, lots, or other real property have been offered, and no taxable property shall be exempt from levy and sale for taxes.

§ 63. METHOD OF SALE—PARCELS—HOMESTEAD RESERVED.] The person who offers to pay the amount due on any parcel of land for the smallest portion of the same is to be considered the highest bidder, and when such a portion constitutes a half or more of the parcel it is to be taken from the east side thereof, dividing it by a line running north and south, except that town lots are to be divided, in such case, lengthwise by a parallel with the proper lines of the lots. If the portion taken be less than one-half of the parcel it is to be taken from the southeast corner, in a square form as nearly as the form of the land will conveniently permit. The preceding provisions of this section are subject to the following qualifications. The homestead shall not be sold for any taxes due from the owner thereof until all other land, town lots, or other real property shall have been first sold, and to that end the quantity of land offered for sale may be obtained by drawing the division line in any direction so as to avoid the homestead, and when the homestead constitutes a part of the tract or parcel sold, and is not yet ascertained, the court may in the action hereafter authorized, at the suggestion of either party, cause proceedings to be had similar to that required in relation to mechanics' liens, for the ascertainment of the homestead. And in all other cases of such sales, it may take the requisite order and proceedings to ascertain the land sold, and to set apart from the homestead.

§ 64. PERSONS BIDDING FAILING TO PAY.] Should any person so bidding fail to pay the amount due, the treasurer may again offer land for sale if the sale has not closed, and if it has closed he may again advertise it specially and by description, by one written or printed notice posted for two weeks on the door of the court house or place where courts are usually held, after which it may be sold at public sale; or the treasurer may recover the amount by civil action, brought in the name of the county in which the sale was held.

§ 65. FILING RETURNS OF SALE.] On or before the first Monday of October following the sale of real property the treasurer is required to file in the office of the county clerk of his county a return of his sale of land (retaining a copy in his office) showing the lands sold, the names of the purchasers and the sums paid by them, and also a copy of the notice of the sale, with a certificate of the advertisement, verified by an affidavit, and such certificate shall be evidence of the regularity of the proceedings.

§ 66. DESCRIPTIONS ENTERED NUMERICALLY.] The description of real estate in such returns shall be entered in the same numerical order as required in the tax list, and such return shall be as nearly as may be in the following form, to-wit:

TREASURER'S SALE BOOK. DELINQUENT TAXES OF 18.., ..... COUNTY, DAKOTA.

Date of Sale.	Part of Section or Name of Town.	Section or Lot.....	Town or Block.....	Range or Lot.....	Acres or Block.....	Names of Purchaser.	Amount Sold for.....	Subsequent Taxes Paid.....	Total.....	By whom Redeemed.	Am't Paid for Redemption.....	Redemption Money.....	Remarks.

CERTIFICATES OF PURCHASE.

§ 67. PURCHASER ENTITLED TO CERTIFICATE.] The purchaser of any tract of land sold by the county treasurer for taxes will be entitled to a certificate in writing describing the land so purchased, the sum paid, and the time when the purchaser will be entitled to a deed, which certificate shall be assignable, and said assignment must be acknowledged before some officer having power to take acknowledgment of deeds: such certifi-

cate shall be signed by the treasurer in his official capacity, and shall be presumptive evidence of the regularity of all prior proceedings. The purchaser acquires the lien of the tax on the land, and if he subsequently pay any taxes levied on the same, whether levied for any year or years previous or subsequent to such sale; he shall have the same lien for them, and may add them to the amount paid by him in the purchase, and the treasurer shall make out a tax receipt and duplicate for the taxes on the real estate mentioned in such certificate, the same as in other cases, and shall write thereon, "sold for tax at public sale." Such certificate shall be substantially in the following form:

COUNTY TREASURER'S CERTIFICATE OF TAX SALE.

THE TERRITORY OF DAKOTA, }  
 .....County. } ss.

I, .... treasurer of the county of ....., in the territory of Dakota, do hereby certify that the following described real estate in said county and territory, to-wit: [describing the same] was, on the ..... day of ....., 18 .., duly sold by me in the manner provided by law for the delinquent taxes of the year 18 .. thereon, amounting to ..... dollars, including interest and penalty thereon, and the costs allowed by law, to ....., for the sum of ..... dollars, he being the highest and best bidder for the same.

And I further certify that unless redemption is made of real estate, in the manner provided by law, the said ..... or assigns, will be entitled to a deed therefor on and after the ..... day of ....., A. D. 18 .., on surrender of this certificate.

In witness whereof, I have hereunto set my hand this .... day of ....., A. D. 18 ..

.....  
 Treasurer.

§ 68. FEE FOR DEED.] The treasurer is authorized to demand fifty cents for each deed or certificate made by him on such sale and the fee of the notary public or other officer acknowledging the deed, but any number of parcels of land bought by any one person, may be included in one deed or certificate, as may be desired by the purchaser; and whenever the treasurer makes a deed to any land sold for taxes, he shall enter an account thereof in the sale book opposite the description of the land conveyed.

PRIVATE SALE.

§ 69. PRIVATE SALE PROVIDED.] After the tax sale shall have closed, and after the treasurer has made his return thereof to the county clerk, as provided in sections sixty-five and sixty-six, of this chapter, if any real estate remain unsold for want of bidders thereof, the county treasurer is authorized and required to sell the same at private sale, at his office, to any person who will pay the amount of the taxes, penalty and costs thereon for the same. And to deliver to said purchasers a certificate, as provided in section sixty-seven, of this chapter; and to make out duplicate receipts for the taxes on such real estate, and deliver one to the purchaser and the other to the county clerk, as hereinbefore provided, with the additional statement inserted in the certificate, that such lands have been offered at public sale for taxes, but not sold for want of bidders, on which he is required to write, "sold for taxes at private sale;" and the treasurer is further authorized and required to sell as aforesaid all real estate in his county on which taxes remain unpaid and delinquent for any previous year or years.

## REDEMPTION.

§ 70. MAY REDEEM—HOW—PROVIDED.] The owner or occupant of any land sold for taxes, or any other person, may redeem the same at any time within two years after the day of such sale, or at any time before the execution of a deed of conveyance therefor by the county treasurer, by paying the county treasurer, for the use of the purchaser, his heirs or assigns, the sum mentioned in this certificate, and interest thereon at the rate of thirty (30) per cent. per annum from the date of purchase, together with all other taxes subsequently paid, whether for any year or years previous or subsequent to said sale, and interest thereon at the same rate from the date of such payment; and the treasurer shall enter a memorandum of the redemption in the list of sales, and give a receipt therefor to the person redeeming the same, and file a duplicate of the same with the county clerk as in other cases, and hold the money paid to the order of the purchaser, his agent or attorney; *Provided*, That infants, idiots and insane persons may redeem any lands belonging to them, sold for taxes, within one year after the expiration of such disability.

§ 76. UNDIVIDED LAND SOLD.] Any person claiming an undivided part of any land sold for taxes, may redeem the same on paying such proportion of the purchase money, interest, principal and subsequent taxes as he shall claim of the land sold.

§ 72. PARTIAL REDEMPTION.] In every case of partial redemption, pursuant to the last section, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption, and the county treasurer shall convey accordingly.

## EXECUTION OF DEED AND EFFECT THEREOF.

§ 73. TAX DEED AFTER TWO YEARS—EFFECT THEREOF.] If no person shall redeem such lands within two years, at any time after the expiration thereof, and on production of the certificate of purchase, the treasurer of the county in which the sale of such lands took place shall execute to the purchaser, his heirs or assigns, in the name of the territory, a deed of the land remaining unredeemed, which shall vest in the grantee an absolute estate in fee simple, in such land, subject, however, to all the claims which the territory may have thereon for taxes or other liens or incumbrances.

§ 74. EXECUTION AND FORM OF DEED.] Such deed shall be executed by the county treasurer under his hand, and the execution thereof shall be attested by the county clerk with the county seal, and such deed shall be conclusive evidence of the truth of all the facts therein recited, and prima facie evidence of the regularity of all the proceedings from the valuation of the land by the assessor up to the execution of the deed, and such deed shall be substantially in the following or other equivalent form, to-wit:

Whereas, A. B. did, on the.....day of..... A. D. 18...., produce to the undersigned, C. D., treasurer of the county of..... in the territory of Dakota, a certificate of purchase in writing, bearing date the.....day of.....18....signed by E. F., who at the last mentioned date was treasurer of said county, from which it appears that..... did on the.....day of.....18....purchase at public auction at the door of the court house in said county, the tract, parcel or lot of land lastly in this inden'ure described,

and which lot was sold to . . . . . for the sum of . . . . . being the amount due on the following tract or lot of land returned delinquent for the non-payment of taxes, costs and charges for the year 18 . . . . . to-wit: [here insert the land offered for sale.] And it appearing that the said A. B. is the legal owner of said certificate of purchase, and the time fixed by law for redeeming the land therein described having now expired, and the same not having been redeemed as provided by law, and the said A. B. having demanded a deed for the tract of land mentioned in said certificate, and which was the least quantity of the tract above described that would sell for the amount due thereon for taxes, costs and charges as above specified, and it appearing that said lands were legally liable for taxation, and had been duly assessed and properly charged on the tax book or duplicate for the year 18 . . . . . and that said lands had been legally advertised for sale for taxes, and were sold on the . . . . . day of . . . . . 18 . . . . .

Now, therefore, this indenture, made this . . . . . day of . . . . . 18 . . . . . between the territory of Dakota, by C. D., the treasurer of said county, of the first part, and the said A. B. of the second part, witnesseth, that the said party of the first part, for and in consideration of the premises and the sum of one dollar in hand paid, hath granted, bargained and sold, and by these presents doth grant, bargain, sell and convey unto the said party of the second part . . . . . heirs and assigns forever, the tract or parcel of land mentioned in said certificate and described as follows, to-wit: [describe the land,] to have and to hold said mentioned tract or parcel of land, with the appurtenances thereto belonging, to the said party of the second part . . . . . heirs and assigns forever, in as full and ample manner as the said treasurer of said county is empowered by law to sell the same.

In testimony whereof, the said C. D., treasurer of said county of . . . . . has hereunto set his hand and seal on the day and year aforesaid.

Attest:

\_\_\_\_\_ [SEAL.]

which deed shall be acknowledged by said treasurer before some one authorized by law to take acknowledgments of deeds.

§ 75. LIMITATION OF ACTION TO RECOVER LAND.] No action shall be commenced by the former owner or owners of lands, or by any person claiming under him or them, to recover possession of land which has been sold and conveyed by deed for non-payment of taxes, or to avoid such deed, unless such action shall be commenced within three years after the recording of such deed; and not until all taxes, interest and penalties, costs and expenses shall be paid or tendered by the parties commencing such action.

§ 76. TAX SALE NOT VOIDABLE.] The sale of lands, town or city lots, or city lots, or any other real property, for taxes shall not be invalid on account of such real property having been listed or charged on the duplicate in any other name than that of the rightful owner; nor shall any such sale be invalid, nor the conveyance for the real property so sold be voidable by reason of the neglect or failure of the treasurer, or any other officer, to collect the tax for which it was sold, by distraint and sale of personal property.

§ 77. CERTIFICATE DELIVERED FOR DEED.] When deeds are delivered for real property sold for taxes, the certificate therefor must be cancelled and filed away by the county clerk; and in case of the loss of any certificate, on being satisfied thereof by due proof, and bond being given to the territory of Dakota, in a sum equal to the value of the property conveyed, as in cases of lost notes or other commercial paper, the county treasurer may execute and deliver the proper conveyance, and file such proof and bond with the county clerk.

#### SALES WRONGFULLY MADE.

§ 78. ERRONEOUS SALES CORRECTED.] When, by mistake or wrongful act of the treasurer, land has been sold on which no tax was due at the

time, the county is to save the purchaser harmless by paying him the amount of principal and interest to which he would have been entitled had the land been rightfully sold, and the treasurer and his sureties shall be liable for the amount to the county on his bond, or the purchaser may recover the same directly from the treasurer.

§ 79. JUDGMENT REQUIRED FOR TAXES DUE.] Whenever any action or proceeding shall be commenced and maintained before any court or judge to prevent or restrain the collection of any tax or part thereof, or any particular act of an officer in the collection thereof, or to recover any such tax before paid, or to recover the possession or title of any property, real or personal, sold for taxes, or to invalidate or cancel any deed or grant thereof for taxes, or to restrain, prevent recover or delay any payment of taxes, the true and just amount of taxes due upon such property or by such person must be ascertained and judgment must be rendered and given therefor against the taxpayer, and if the tax be delinquent execution must issue forthwith for the same.

#### TAX FOR TERRITORIAL PURPOSES.

§ 80. TAX FOR TERRITORIAL PURPOSES.] A tax of thirty dollars for territorial purposes shall be levied upon each peddler of watches, clocks, jewelry, or patent medicines, and all other wares and merchandise not manufactured within the limits of this territory, for a license to peddle throughout the territory for one year.

§ 81. LICENSES—HOW OBTAINED.] Such license may be obtained from the county clerk of any county, upon paying the proper tax to the treasurer thereof and taking his receipt therefor.

§ 82. PEDDLING WITHOUT LICENSE.] Any person so peddling without a license is guilty of a misdemeanor, and the person actually peddling is liable whether he be the owner or not, and upon conviction thereof shall forfeit and pay the sum of fifty dollars to the county treasurer where such conviction shall be had, to be recovered by civil action in the name of the county prosecuting for the same. All fines and penalties recovered under this section shall be applied to the common school fund of the county prosecuting for the same, and if any peddler refuses to exhibit his license to any person requiring a view of the same he shall be presumed to have none, and if he produce a license upon trial such peddler shall pay all costs of prosecution.

#### PAYMENT OF TERRITORIAL FUNDS BY COUNTY TREASURER.

§ 83. TERRITORIAL FUNDS—WHEN AND HOW DELIVERED.] The treasurers of the several counties shall pay into the territorial treasury all funds in their hands belonging thereto, on or before the first Monday of November in each year, and at such other times as the territorial treasurer shall require, and the funds so paid in shall be the identical territorial warrants, if any, received by the treasurer for the payment of the taxes, or in coin, or in treasury notes of the United States, and the county treasurer shall be entitled to receive ten cents a mile for travel each way by the

nearest routes in making his returns to the territorial treasurer, which he may receive either by credit on his account, or on an order of the auditor upon the territorial treasury: *Provided, however,* That when the distance from the county to the territorial treasury is over fifty miles then the county treasurer is required to send the territorial tax by United States draft or a post office order, or by express, for which he shall be allowed the actual expenses for procuring the same, and no more.

§ 84. PENALTY FOR FAILURE.] If the county treasurer shall willfully and negligently fail to settle with the territorial treasurer at the time and in the manner above prescribed by law, he shall forfeit to the use of the territory the sum of five hundred dollars, which sum may be recovered of him, or his sureties, on suit brought by the territorial treasurer in any court in this territory having jurisdiction; or in case of failure of the territorial treasurer to bring such suit, then any citizen of the territory may bring the same.

LIST OF LANDS BECOMING TAXABLE.

§ 85. LANDS BECOMING TAXABLE. A list of lands becoming taxable for the first time in each county of the territory, shall be procured by the territorial auditor from the proper land officers, at the best prices for the territory, and a list of the lands becoming so taxable in each of the several counties, shall be forwarded by the auditor to the county clerk of each county on or before the fifteenth day of February of each year.

WARRANT BOOK.

§ 86. WARRANT BOOKS FOR COUNTY—FORM.] Each county treasurer is required to keep a book called the "warrant book," in which he shall enter every territorial, county, road or other warrant or order by him paid, or received in payment of taxes, specifying the date at which the same was received and canceled, from whom received, the payee, or person in whose favor it was drawn, its number and date, the amount for which it was originally drawn, the total amount of indorsements or payments made thereon, the principal sum for which it was received, the interest allowed, and total amount for which it was received, and the treasurer shall keep his account of warrants and orders by him received for and on account of taxes, separate and distinct from such as are by him paid in cash, and in another and separate place he shall enter an account of all indorsements made on warrants or orders in part payment thereof. Such warrant book shall be in the following form, to-wit:

TREASURER'S WARRANT BOOK, . . . . . COUNTY, DAKOTA.

Date.	From what Received.	Payee of Warrant.	Number of Warrant.	Date of Warrant.	Amount.	Indorsements.	Prin- cipal.	Inter- est.	Total.

MISCELLANEOUS PROVISIONS.

§ 87. PENALTY FOR SUBSTITUTING WARRANTS.] If any county treasurer or his deputy, or any other person, shall knowingly or willfully make,

issue and deliver, any tax receipt, or duplicate tax receipt, and therein designate any part or parts of the amount thereof as being paid in warrants or orders when the same was or were paid in cash, such treasurer, or deputy treasurer, or other person, shall be deemed guilty of a high crime and misdemeanor, for which he may be indicted by a grand jury, and on conviction thereof before any court of competent jurisdiction in this territory, he shall be sentenced to imprisonment in the penitentiary for a term of not less than one, nor more than five years, in the discretion of the court.

§ 88. FRAUDULENT RECEIPTS—PENALTY.] If any county treasurer in this territory, or his deputy, or any person, shall knowingly or willfully make, issue and deliver, any tax receipt, or duplicate tax receipt, required by section forty-three of this act, to be issued, by fraudulently making the tax receipt and its duplicate, or the paper purporting to be its duplicate, different from each other, with intent to defraud the territory of Dakota, or any county in said territory, or any person or persons whomsoever, such treasurer or deputy treasurer or other person, shall be deemed guilty of a high crime and misdemeanor for which he may be indicted by a grand jury, and on conviction thereof before any court of competent jurisdiction of this territory, he shall be sentenced to imprisonment in the penitentiary for a term of not less than one year, nor more than five years, in the discretion of the court.

§ 89. DERELICTION OF OFFICER.] In the case of dereliction of duty on the part of any officer or person required by law to perform any duty under the provisions of this act in any county in this territory, such person shall thereby forfeit all pay and allowance that would otherwise be due him, and the county commissioners in any such county, on receiving satisfactory evidence of such dereliction or failure to perform as required by law any duty enjoined by this act, shall refuse to pay such person or persons any sum whatever for such services.

§ 90. MISCELLANEOUS RECEIPTS.] When any money shall be paid to the county treasurer, he shall make the proper duplicate receipts for the same, as in the case of the payment of taxes, and shall give one of said receipts to the person paying said money, and the other to the county clerk within one month thereafter.

§ 91. INTEREST ON WARRANTS RECEIVED.] When the county treasurer shall receive any county or territorial warrants, or orders, on which any interest is due, he shall note on such warrants or orders the amount of interest by him paid thereon, and shall enter in his account the amount of such interest, distinct from the principal.

§ 92. REDEEMED WARRANTS.] When the county treasurer of any county shall pay any county order drawn on him by the county commissioners, or when he shall take or receive any such order in payment for any tax, he shall write on the face of such order "Redeemed," and the date of redemption, and shall sign his name thereto.

§ 93. WHEN WARRANT EXCEEDS TAX.] When any person desiring to pay any taxes due and unpaid, shall present a county order to the treasurer

of any county in payment for such tax, which shall exceed the amount that such treasurer is authorized to receive in county orders in payment for such tax, he shall indorse on the back of such order in part payment, the amount he is authorized by law to receive, and date the same. Said treasurer shall take two receipts from the holder of such order, for the amount so indorsed and paid, showing the date of the indorsement, a full description of such county order, including the date thereof, to whom given, the amount for which it was given, and all the indorsements thereon; one of which receipts he shall forthwith file with the county clerk, the other he shall retain as his voucher.

§ 94. PART PAYMENTS APPLIED.] When any person shall desire to pay only a portion of the tax charged on any real estate, such person shall pay a like proportion of the several taxes charged thereon, and no person shall be permitted to pay one of said taxes without paying the others, except the tax for the erection, completion or repair of school houses, the collection of which shall have been enjoined by law.

§ 95. DELINQUENT TREASURER.] If any county treasurer shall fail to make return, fail to make settlement, or fail to pay over all money with which he may stand charged, at the time and in the manner prescribed by law, it shall be the duty of the county clerk, on receiving instructions for that purpose from the territorial auditor or from the county commissioners of his county, to cause suit to be instituted against such treasurer and his sureties or any of them, in the district court of his county.

§ 96. BOARD MAY REMOVE.] Whenever suit shall have been commenced against any delinquent county treasurer, as aforesaid, the board of county commissioners of such county may, at their discretion, remove such treasurer from office, and appoint some suitable person to fill the vacancy thereby created, as hereinbefore provided.

§ 97. ADDITIONAL SURETY.] The county commissioners of any one of the counties of this territory, may require the county treasurer to give additional freehold sureties, whenever in the opinion of a majority of said commissioners, the existing security shall have become insufficient; and said commissioners are hereby also authorized and empowered to demand and receive from said county treasurer an additional bond, as required by law, with good and sufficient freehold security, in such sum as said commissioners or a majority of them may direct, whenever, in their opinion, more money shall have passed, or is about to pass into the hands of said treasurer, than is or would be recovered by the penalty in the previous bond.

§ 98. IF TREASURER FAIL.] If any county treasurer shall fail or refuse to give such additional security or bond, for and during the time of ten days from and after the day on which said commissioners shall have required said treasurer so to do, his office shall be considered vacant, and another treasurer shall be appointed, agreeably to the provisions of law.

§ 99. TREASURER NOT DISCOUNT WARRANTS.] No county treasurer shall either directly or indirectly, contract for or purchase any order or orders, issued by the county of which he is the treasurer, at any discount what-

ever upon the sum due on such order or orders; and if any county treasurer shall so contract for or purchase any such order or orders, he shall not be allowed, in settlement, the amount of said order or orders or any part thereof, and shall also forfeit the whole amount due on such order or orders, to be recovered by civil action, at the suit of the territory of Dakota, for the use of the county.

§ 100. CERTAIN CREDITS FORBIDDEN.] The county treasurer, on his settlement with the county commissioners, shall not be credited with any sum for interest paid on any order, unless he shall, at the time of receiving the same, have noted thereon the amount of interest due thereon.

§ 101. SHALL NOT LOAN OR USE FUNDS.] If any county treasurer shall loan any money belonging to his county, with or without interest, or shall use the same for his own individual purpose, he shall forfeit and pay for every such offense a sum not exceeding five hundred dollars, nor less than one hundred dollars, to be recovered in action at law at the suit of the territory of Dakota, for the use of the county.

§ 102. PAYMENTS AFTER SETTLEMENT.] Each county treasurer shall, immediately after the annual settlement with the county commissioners of his county, on demand and presentation of the order of the clerk, issued by direction of the county commissioners therefor, pay over to the district or precinct treasurer, city treasurer, or other proper officer, all moneys in the county treasury belonging to any district, precinct, city, town or school district; *Provided*, That the moneys mentioned in this section may, by the direction of the proper local officers, remain in the county treasury, on the order of the county clerk as aforesaid.

§ 103. DETAILED EXHIBIT, WHAT TO CONTAIN.] The county clerk and county treasurer, conjointly shall make out annually a detailed exhibit, showing the receipts and disbursements of the county for the fiscal year, and also the assets and liabilities at the time of making out the same; said exhibit shall show the amount of all orders on the treasury issued during the year next preceding, to whom allowed, and on what account, and also the liabilities of the county stated in detail, and the assets of every kind as near as may be; showing also the amount of funds in the treasury at the time of making said exhibit, on what account paid in, and the kind of funds; said exhibit shall be made out annually, and posted up in the office of the treasurer, on the first Monday in October.

§ 104. LOAN AND EMBEZZLEMENT PUNISHED.] If any county treasurer, other officer or person, charged with the collection, receipt, safe keeping, transfer or disbursements of the public money, or any part thereof, belonging to the territory or any county, precinct, district, city, town or school district in this territory, shall convert to his own use, or to the use of any other person or persons, body corporate, association or party whatever, in any way whatever; or shall use by way of investment in any kind of security, stocks, loan, property, land or merchandise, or in any other manner or form whatever; or shall loan, with or without interest, to any company, or corporation, association, or individual; or if any person shall advise, aid, or in any manner knowingly participate in such act,

every such act shall be deemed and held in law to be an embezzlement of so much of said money or other property as aforesaid, as shall be thus converted, used, invested, loaned, or paid out as aforesaid, which is hereby declared to be a high crime and misdemeanor, and upon presentation, trial by indictment and conviction thereof, before any court of competent jurisdiction in this territory, such county treasurer or other officer or person shall be sentenced to imprisonment in the penitentiary, and kept at hard labor, for a term of not less than one year nor more than twenty-one years, according to the magnitude of the embezzlement, and also to pay a fine equal to double the amount of money or other property so embezzled, as aforesaid; which fine shall operate as a judgment at law on all the estate of the party so convicted and sentenced, and shall be enforced by execution or other process, for the use only of the party or parties whose money, or other funds, property, bonds or securities, assets or affects, of any kind as aforesaid, have been so embezzled; and in all cases, such fine so operating as a judgment, shall only be released or entered as satisfied by the party or parties in interest, as aforesaid.

§ 105. EXTRAORDINARY EXPENDITURE REQUIRES VOTE.] If the county commissioners deem any expenditure necessary, greater in amount than can be provided for by the annual tax, they shall require a vote of the county thereon, either at a general election, or one called especially for the purpose. In either case, four weeks' notice of said election shall be given in each newspaper published in the county, and the notice shall specify the amount to be raised, and the precise purpose for which it is to be expended, and if a majority of the votes cast authorize the tax, the county commissioners shall cause the same to be levied and collected in the same manner as the annual tax, and if possible at the same time; *Provided, However,* That no new assessment shall be made for any especial tax.

## CHAPTER 29.

### HIGHWAYS, BRIDGES, FERRIES AND ROAD SUPERVISORS.

#### TERRITORIAL ROADS.

§ 1. SECTION LINES HIGHWAYS.] All section lines shall be, and are hereby declared, public highways, as far as practicable; *Provided*, That nothing in this act shall be so construed as to interfere with existing highways in the settled portions of the territory.

§ 2. VACATION AND CHANGE.] The board of county commissioners of each county shall have power to vacate or change the highways within their respective counties, located by the legislative assembly, as hereinafter provided.

§ 3. SIXTY-SIX FEET WIDE.] The public highways along section lines, as declared by the first section of this chapter, shall be sixty-six feet wide, and shall be taken equally from each side of said lines, unless changed as provided in the preceding section.

#### LOCATION, VACATION AND CHANGE OF HIGHWAYS RUNNING THROUGH MORE THAN ONE COUNTY.

§ 4. PETITION AND PROCEEDINGS.] When fifteen freeholders of any county shall petition the board of commissioners of such county for the location, change or vacation of any highway running into more than one county, six of which freeholders shall reside in the immediate neighborhood of such highway, setting forth in such petition the beginning, course and termination of the highway proposed to be located or vacated, or of the change desired to be made, together with the names of the owners and occupants or agents of the lands through which the same may pass, the county clerk of such county shall notify the county clerk of each of the counties in which such highway is to be run, located, vacated or changed, of the filing of such petition, accompanying such notice with a copy of such petition, which shall be by such county clerks laid before the several boards of county commissioners at their next session thereafter, when such board shall appoint commissioners according to the regulations hereinafter provided.

§ 5. NOTICE AND EXAMINATION.] Upon the board of commissioners of the county in which such petition is first filed being satisfied that notice

thereof has been given at least twenty days before the session of such board at which such petition is to be heard, by publication in a newspaper of each county in which such highway is to be run, vacated or changed, for three weeks successively, or by written or printed notices posted up in three of the most public places in the neighborhood of such highway, in each of such counties, such board shall appoint a commissioner to examine such highway.

§ 6. CLERK TO NOTIFY EXAMINERS.] Immediately upon the appointment of such commissioner, the county clerk of such county must notify the county clerk of each of the counties interested, specifying, in such notice, the time and place when such commissioners shall meet to commence the examination of such highway. When such last mentioned county clerk, and the county clerk of the county where such petition is first filed, shall issue precepts to the sheriffs of their respective counties, directing them to notify such commissioners of such appointments, and the time and place of their meeting.

§ 7. NUMBER AND DISAGREEMENT.] Each board shall appoint one commissioner, and in case the number is equal and cannot agree, the commissioner thus appointed shall appoint another, who shall perform the same duties and receive the same fees as those first appointed.

§ 8. OATH AND DUTY OF EXAMINERS.] At the time and place designated in the notice given by the county clerk of the county in which such petition is first filed, such commissioners shall meet, and having first taken an oath, to be administered by some authorized officer, to faithfully perform their duties, shall proceed to examine the highway proposed to be located, vacated or changed, and in such examination may employ a surveyor, and a necessary number of chain carriers and markers.

§ 9. REPORT OF SAME.] After such commissioners shall have completed their examination, they shall draw up a report of their proceedings, setting forth the highway proposed to be located, vacated, or changed by course and distance, and recommending therein, according to the opinion of the majority of such commissioners, either that the prayer of such petition shall be granted or rejected, a copy of which report shall be returned to the board of commissioners of each of the counties interested at their next session thereafter.

§ 10. DECISION UPON PETITION.] Upon the return of such report the board of commissioners shall proceed to determine the prayer of such petition, and if there shall be no remonstrance against the same, and it is recommended in such report, such board may, if they deem it expedient, declare it granted, and, if so declared, shall direct the county clerk to notify the county clerks of each of the other counties interested thereof. Then, if there be no remonstrance pending in either county interested, the county clerk of each of such counties shall notify the supervisors of the road districts in his county through which such highway passes, or the change is made, when such supervisors shall open so much of such highway as lies in their respective districts, and such road supervisors must in

like manner be notified of the vacation of any highway, or of any part thereof.

§ 11. DISMISSAL OF PETITION.] If such commissioners do not recommend the prayer of such petition to be granted the boards of commissioners of the counties interested shall order it to be dismissed, but such order of dismissal shall not be a bar for other petitions thereafter concerning the same subject matter.

§ 12. REMONSTRANCE HEARD.] If at the session of the board of commissioners at which the report of the commissioners appointed to examine such highway, is presented, any person shall remonstrate against granting the prayer of the petition, setting forth in writing that he is damaged in a sum mentioned, by the location, vacation or change of such highway, to the truth of which he shall take and subscribe an oath, such board shall appoint three persons, residents of such county, to review that part of such highway, whereof such complaint is made, and shall direct the county clerk of such county to notify the county clerk of each of the other counties interested in such remonstrance, when further proceedings touching such petition shall be continued until the ensuing term of such board.

§ 13. VIEWERS ASSESS DAMAGES.] Such reviewers, at the time and place designated by the board of commissioners to whom such remonstrance is presented, shall meet, and having taken an oath before some officer authorized to administer oaths, to faithfully perform their duties as such reviewers, shall proceed to examine that part of such highway, or the change thereof complained of, and having done so, shall at the next term of such board, report their proceedings to such board, in which report they shall specify the amount of damages sustained by the person remonstrating, if any; whereupon such board shall determine whether the damages assessed are greater than the utility of the proposed highway or change, and if they shall be of opinion that the prayer of the petition should not be granted, they shall direct the county clerk of such county to notify the county clerk of each of the other counties interested thereof, and continue further proceedings in the premises until the next term thereafter; but if they shall be of the opinion that the damages should be paid and the prayer of the petition be granted they shall direct such county clerk to notify the county clerk of each of the other counties interested of the amount of such damages and shall continue further proceedings to the next term thereafter.

§ 14. PETITION WHEN REJECTED.] If more freeholders residing along the highway proposed to be located, vacated, or changed, remonstrate against granting the prayer of such petition than those of the same county petition therefor, the board of commissioners of such county shall decide against such petition, and shall direct the county clerk of such county to notify the county clerk of each of the other counties interested therein of such fact and decision, and continue further proceedings in the premises until the ensuing term.

§ 15. FINAL DETERMINATION.] At the next term after the reception of notice of any remonstrance, and the proceedings thereon, the county clerks

of such counties shall lay the same before their respective boards of commissioners, who shall determine whether the prayer of the petition ought to be granted, and shall cause the county clerk of each county interested therein to be notified, and if the boards of commissioners of a majority of such counties decide in favor of such petition, at the term of such boards when the same is ascertained, such highway shall be declared located, vacated or changed, and such supervisors notified thereof as hereinbefore provided, but if a majority of such boards decide against such petition, it shall be declared dismissed whenever it is ascertained, and all damages declared assessed shall be paid equally by the counties interested; and if such reviewers shall fail to assess any damages, the person asking the same shall pay the costs of such review.

§ 16. FEES FOR SERVICES.] Such commissioners appointed to examine such highway, and such reviewers, shall receive each two dollars for every day they may be necessarily employed, and such surveyor, chain carriers and markers shall receive such compensation as the board of county commissioners, where such petition is first filed, shall deem reasonable, to be paid equally by each county interested.

§ 17. ROAD RECORDED IN EACH COUNTY.] Whenever a highway is located, vacated or changed, the order therefor shall be entered of record in the order book of the board of commissioners of each county interested, in which county such highway or change thereof shall be particularly described by course and distance.

OF THE LOCATION, VACATION, AND CHANGE OF HIGHWAYS NOT ON SECTION OR QUARTER SECTION LINES.

§ 18. PETITION AND NOTICE.] Whenever twelve freeholders of the county, six of whom shall reside in the immediate neighborhood, shall petition the board of county commissioners for the location, vacation, or change of any public highway other than on section or quarter section lines; such board, if they shall be satisfied that notice of such application has been given by publication three weeks successively in a newspaper published in the county, or by posting up notices in three of the most public places in the neighborhood of such highway, or change, at least twenty days before the meeting of the board, at which such petition is to be presented, shall appoint three persons to view such highway.

§ 19. SHERIFF NOTIFIES VIEWERS.] The county clerk of such county shall issue a precept to the sheriff thereof, commanding him to notify such viewers of the time, place and object of their meeting, and such viewers, at such time and place, after having taken an oath, before some officer authorized to administer oaths, to faithfully perform their duties, shall proceed to view the highway, or such change; and if they shall deem the highway to be located, or the change to be made, of public utility, they shall lay out and mark the same on the best ground, not running through any person's enclosure or other improvement of one year's standing, without the owner's consent, unless upon examination, a good way cannot otherwise be had.

§ 20. **REPORT AND RECORD.**] Such viewers, or a majority of them, shall make a report of their proceedings at the ensuing session of the board of commissioners of the county in which such location, change or vacation may be made, giving a full description of such location, change or vacation, by metes and bounds and by its course and distance, except that in case of the vacation of a road, or any part thereof, such description only as will designate it clearly, shall be required; and in such case, a copy of the order vacating such highway shall be recorded by the proper county clerk of the county, and shall cause the supervisors of the road district to be notified accordingly.

§ 21. **OPENING OF ROAD.**] If no objections be made to such proposed highway, vacation or change, such board shall cause a record thereof to be made, and shall order the same to be opened and kept in repair, which order shall be transmitted to the trustees of any of the townships in which such location or change is made; and shall cause notice thereof to be given to the proper supervisor, to work such location or change.

§ 22. **APPOINTMENT OF REVIEWERS.**] If any person through whose land such highway or change may pass shall feel aggrieved thereby, such person may at any time before final action of the board thereon, set forth such grievances by way of remonstrance, and the said board shall thereupon appoint three disinterested freeholders as reviewers and assign a day and place for them to meet.

§ 23. **REVIEWERS TAKE OATH—REPORTS.**] Such reviewers, having five days' notice, to be given by the party remonstrating, shall meet at the time and place designated, and take an oath faithfully to discharge the duties assigned them, and shall then or on any other day to which a majority, may adjourn, prior to the next session of said board, proceed to review the proposed highway and assess the damages, if any, which such objector may sustain from such highway or change being opened, vacated or continued through his lands, and shall report the same to the ensuing session of such board.

§ 24. **ACTION ON REPORT OF MAJORITY.**] If a majority of the viewers assess and report damages in favor of the objector, and the board shall consider the proposed highway, vacation or change to be of sufficient importance to the public they shall order the costs and damages to be paid out of the county treasury; but if a majority report against the claim for damages, the objector shall pay the costs, and when payment of damages is made as herein provided, such highway shall be recorded and ordered to be opened and kept in repair, as hereinbefore provided.

§ 25. **SETTING ASIDE ASSESSMENT.**] If it shall be made to appear to the board that the damages assessed are unreasonable they may set aside such assessment and order another review, under the same regulations as provided in case of the first review.

§ 25. **REVIEWERS APPOINTED.**] If any one or more freeholders residing in such county, along such proposed highway, vacation or change, shall object to the same at any time before final action thereon, as not being of public utility, other viewers may be appointed, who shall proceed, on a

day to be by them designated, after having taken an oath faithfully to discharge the duties assigned them, to examine the proposed highway, and shall make report to such board at their next session, whether or not, in their opinion, the said highway, vacation or change, will be of public utility.

§ 27. REPORT OF REVIEWERS.] If a majority of the viewers last named report against the public utility of such highway, the same shall not be established unless the petitioners will open and maintain the same at their own expense; but if they report favorably thereto the objector shall pay the costs of the review, and the highway shall be recorded and ordered to be opened and kept in repair, but in no case shall a highway be opened, vacated, or a change be made, if a majority of the freeholders residing along such proposed highway, or along such change, or along the highway proposed to be vacated, shall remonstrate against the same.

§ 28. PAYMENT OF DAMAGES.] No such highway shall be opened, worked, or used, until the damages assessed therefor shall be paid to the persons entitled thereto, or deposited in the county treasury for their use, or they shall give their consent thereto in writing filed with the county clerk of such county.

§ 29. APPEAL TO DISTRICT COURT.] Any person aggrieved by any decision of any board of commissioners may appeal therefrom to the district court of such county, upon his filing a bond, with a surety and penalty, to be approved by the register of deeds of such county, conditioned for the due prosecution of such appeal, and the payment of costs, if costs be adjudged against him, and in case proceedings shall be had in more than one county, the county clerk of each county, on being notified of such appeal by the county clerk of the county in which the appeal is taken, shall transmit to the clerk of the court to which the appeal is taken, all the proceedings in such county, and upon the determination of such appeal such clerk shall notify the county clerk of each of the counties interested thereof.

#### OF THE SAME UPON SECTION AND QUARTER SECTION LINES.

§ 30. ACTION WITHOUT SURVEY OR VIEW.] The board of county commissioners has power to establish, change, and vacate highways upon section and quarter section lines, when the initial and terminal points, and the course of the highway, can be clearly described without the appointment of viewers or the services of a surveyor; but in all other respects the proceedings therein shall be governed by the provisions of the preceding subdivision of this chapter, relating to the establishment, vacation and change of highways not on such lines.

#### MISCELLANEOUS PROVISIONS.

§ 31. ROADS SIXTY-SIX FEET WIDE.] No road shall be less than sixty-six feet wide; and the order for laying any highway must specify the width thereof.

§ 32. ON COUNTY OR TOWN LINES.] Public highways established on the county or township line, shall be opened and repaired by the supervisor of the proper road districts on each side thereof, and by the joint labor of the hands in each of such districts in each county or township.

§ 33. HIGHWAY RUNNING THROUGH ENCLOSURE.] Whenever any public highway shall have been laid out through any enclosed land, the supervisor shall give the occupant of such land, or the owner, if a resident of the road district, sixty days' notice in writing, to remove his fence; but such owner or occupant shall not be compelled to move such fence between the first day of April and the first day of November; and if such fence is not removed pursuant to such notice, such supervisor shall cause the same to be done.

§ 34. CREDIT WHEN NO DAMAGES.] If the owner or occupant shall not have been allowed damages for the laying out of such highway upon his land, the supervisor shall give the person removing such fence credit on his highway tax for any amount that the supervisor shall deem just, subject to the approval of the county commissioners.

§ 35. SIX YEARS NON-USE VACATES.] Every public highway already laid out, or which may hereafter be laid out, and which shall not be opened and used within six years from the time of its being laid out, shall cease to be a highway for any purpose whatever; but if any distinct part thereof shall have been opened and used within six years, such part shall not be affected by the provisions of this section, nor shall this section be applied to streets and alleys in any town; *Provided, however,* That the board of county commissioners shall decide that public necessity does not require such road kept open, which decision shall be recorded by the clerk of the court, whereupon said vacated highway shall vest in the rightful owner, who may have the title thereof, according to law, of the property on each side of said highway.

§ 36. SETTLERS FREEHOLDERS.] In all applications for the location, change, or vacation of any public highway, actual settlers upon any public lands in any county in this territory shall have and possess all rights in this act granted to freeholders.

§ 37. TWENTY YEARS USE | All public highways which have been or may hereafter be used as such, for twenty years or more, shall be deemed public highways.

§ 38. VIEWERS DISINTERESTED.] No person owning lands, or who is related by consanguinity to any person owning lands along any proposed highway or change, shall be competent to act as commissioner, viewer, or reviewer thereof.

§ 39. PAY OF VIEWERS.] Viewers and reviewers appointed under this act shall receive two dollars for every day they shall be necessarily employed as such.

§ 40. BENEFITS CONSIDERED.] The benefits to accrue to any owner, occupant or claimant of lands by reason of opening any highway, are to be considered by the commissioners, or the viewers, in the determination and award of damages for the same.

§ 41. PRIVATE ROADS.] Any person may have a private road laid out, changed, or vacated, upon presenting a petition to the board of commissioners of the county in which such petitioner resides, under regulations hereinbefore provided, for roads running through one county only; *Provided*, That such board may order such private road to be laid out, changed or vacated, without any view, if there be no remonstrance against such petition; and the petitioner shall open and keep in repair such road at his own expense.

§ 42. PUBLIC LANDS--DAMAGES.] When any person shall acquire the title to government lands over which any road has been or may hereafter be duly laid out, subsequent to the laying out of such road, the person so acquiring such title shall, within three months after receipt of his patent therefor, assert his claim for damages in the manner hereinbefore provided in case of locating highways, and such road shall remain and be a public highway, but his damages, if any, shall be paid, and in case of a failure for that length of time to assert his claim for damages, as aforesaid, he shall thereafter be debarred from asserting such claim.

§ 43. OCCUPYING CLAIMANTS.] All public land in this territory, settled upon and occupied by settlers thereon, shall be subject to all the provisions of this act so far as the rights and liabilities of such settlers are concerned.

§ 44. LINE ROADS--ONE HALF OF EACH.] When a public highway is laid out and located upon the line dividing the land of two individuals, one half of the same must be taken, if practicable, from the land of each.

§ 45. BOND FOR COSTS.] In all cases the person or persons remonstrating against the establishment, change or vacation of a public highway, or who may petition for damages occasioned thereby, must give to the board of county commissioners a bond with approved security for the payment of all costs occasioned by such remonstrance or petition for damages in case the highway be established, or no damages be allowed.

§ 46. TIMBER ALONG HIGHWAY.] On all public highways of not less than sixty-six feet in width, the owners, occupants or claimants of adjoining lands may use and occupy one rod in width of such highway adjoining such lands for the purpose of cultivating the growth of timber and trees thereon: *Provided*, That the same be kept continuously in good order and under full timber and tree cultivation.

§ 47. HEDGE PROTECTION.] Any person cultivating a hedge upon his land adjoining a public highway and desiring to fence the same may place such fence seven feet over and upon such highway: *Provided*, That it do not obstruct the public travel.

#### OF BRIDGES.

§ 48. BRIDGES PART OF HIGHWAY.] Bridges erected or maintained by the public constitute a part of the public highway.

#### DUTIES OF PERSONS USING PUBLIC HIGHWAY.

§ 49. VEHICLES TURN TO RIGHT.] Whenever any persons shall meet each other on any bridge or road, traveling with carriages, wagons, sleds,

sleighs, or other vehicle, each shall pass to the right of the middle of the traveled part of such bridge or road, so that the respective carriages, or other vehicles aforesaid, may pass each other without interference.

§ 50. PENALTY—DAMAGES.] Every person offending against the provisions of the preceding section shall, for each offense, forfeit a sum not exceeding twenty dollars, and shall also be liable to the party injured for all damages sustained by reason of such offense.

§ 51. DRUNKEN DRIVERS.] No person owning or having the direction or control of any coach or other vehicle, running or traveling upon any road in this territory, for the conveyance of passengers, shall employ or continue in employment any person to drive such coach or other vehicle, who is addicted to drunkenness, or to the excessive use of intoxicating liquors, and if any such person shall violate the provisions of this section, he shall forfeit a sum not less than ten and not exceeding fifty dollars, and shall be liable for all damages sustained.

§ 52. HITCHING PASSENGER TEAMS.] It shall not be lawful for the driver of any carriage or other vehicle used for the conveyance of passengers, to leave the horses attached thereto while any passenger remains in or upon the same, without making such horses fast with a sufficient halter, rope, or chain, or without some suitable person to take the charge or guidance of them, so as to prevent their running; and if any such driver shall violate the provisions of this section, he and his employer or employers, jointly and severally, shall forfeit a sum not exceeding twenty dollars; but no prosecution shall be commenced therefor after the expiration of three months from the time of committing the offense.

§ 53. PASSENGER CONVEYANCE LIABLE.] The owners of every carriage or other vehicle, running or traveling upon any road or public highway, for the conveyance of passengers for hire, shall be liable, jointly and severally, to the party injured, in all cases, for all damages done by any person in the employment of such owners as a driver, while driving such carriage, to any person, or to the property of any person, whether the act occasioning such injury or damage be willful, negligent, or otherwise, in the same manner as such driver would be liable.

#### OF FERRIES.

§ 54. UNLAWFUL WITHOUT LEASE, OR IN TWO MILES OF OTHER.] It shall be unlawful for any person to establish, maintain, or run, upon any waters within this territory, any ferry upon which to convey, carry, or transport any persons or property, for hire or reward, without first having obtained a license therefor as hereinafter provided; and where but one bank or shore is in this territory, the board of commissioners for the proper county have the same authority, and this law applies with like effect, as if the entire stream were within this territory, so far as the banks and waters actually within it are concerned. And when any ferry lease has been granted, no other lease shall be granted within a distance of two miles thereof across the same stream. Any person violating any of the provisions of this section, shall, for each offense, forfeit and pay to the

proper county not less than five dollars, nor more than one hundred dollars, with costs, to be recovered in an action in the name of the territory.

§ 55. COUNTY BOARD LEASES—TERMS.] The board of county commissioners of the county to whom application shall be made for a ferry, in the manner hereinafter provided, are hereby authorized, and it shall be their duty to grant a lease of such ferry, for a term not exceeding fifteen years, to such person or persons who shall bid and secure the payment of the highest amount of rent for the same, such lease to be executed by the said board of county commissioners as lessors, and such highest bidder or bidders as lessees, and the county commissioners of any county in this territory that have leased to any person or persons the ferry across any stream or streams in this territory, shall be empowered to extend to such person or persons the lease so granted to any person or persons putting in a steam ferry at the same rate as previously paid: *Provided*, That such extended time shall not exceed fifteen years from the time of the granting of the first lease, and that when in the opinion of the county commissioners of the county wherein such lease is granted, the rates fixed by law for crossing such ferry be too high they shall have the right to fix the rates as in their judgment may seem just.

§ 56. RATES ON MISSOURI, SIOUX, DAKOTA AND VERMILLION.] The rates for crossing the Missouri river on ferries, shall not exceed the following, to-wit:

For two horses, mules or oxen and wagon, with or without load, one dollar.

For each additional pair of horses, mules or oxen, thirty cents.

For each two horses or mules and buggy, seventy-five cents.

For each one horse or mule with buggy and driver, fifty cents.

For each lead horse or mule, twenty-five cents.

For loose cattle per head, fifteen cents.

For sheep and swine per head, ten cents.

For each one hundred pounds of freight or merchandise unloaded, ten cents.

For each thousand feet of lumber unloaded, one dollar.

The rates for ferriage across the Big Sioux river, the Vermillion river and the Dakota river, shall not exceed the following, to-wit:

For foot passengers, each, ten cents.

For each horse or mule, with or without a rider, ten cents.

For each head of loose cattle, five cents.

For two horses or mules, or cattle team, loaded or without load, with driver, twenty-five cents.

For each horse or mule, or ox over two, attached to a team, five cents.

For a single horse or mule to a buggy, fifteen cents.

For each head of sheep or swine, five cents.

All freight not attached to teams, five cents per one hundred pounds.

All lumber in pile, fifty cents per thousand feet.

Said ferryman is required to keep a schedule of his legal rates posted

up in a convenient place at or near said ferry, in easy view of the passing public.

§ 57. FERRIES IN UNORGANIZED COUNTIES.] The secretary of the territory is hereby authorized, when application is made to him, to grant a lease of any ferry in any unorganized county or counties, or in any other unorganized country, within and under the jurisdiction of the territory, for the like period and under the provisions of this chapter in every respect which are applicable thereto. The money received therefor shall be by him paid into the territorial treasury: *Provided*, That all licenses granted by the secretary under this section shall terminate upon the organization of the county in which the same or any part thereof lies, and it shall thereafter be subject to the general law as herein provided.

§ 58. SAFETY OF FERRIES.] Every person obtaining a lease to keep a ferry as aforesaid, shall provide and keep in good repair a good and sufficient boat for the safe conveyance of persons or property, and when the river or creek over which the ferry is kept is passable, shall, with a sufficient number of hands to work and manage the boat, from sun rise till sun set, and with reasonable care and promptness, convey across said ferry all persons and property presented for transportation across the same. And if any lessee, as aforesaid, shall fail or neglect to perform all or any of the duties enjoined upon him by this act, or shall demand or receive a higher rate of ferriage than shall be allowed by the preceding section of this act, the lessee so offending, shall for each offense forfeit and pay the sum of ten dollars, to be recovered in the name of the territory of Dakota before any justice of the peace of the proper county.

§ 59. PENALTY FOR UNLAWFUL FERRY.] If any person shall keep a ferry in any of the organized counties of this territory, without a lease first obtained from the board of county commissioners as aforesaid, the owner or person so offending shall forfeit and pay a sum of not less than fifty dollars, and not exceeding five hundred dollars, for each year or fractional part of a year such person shall keep such ferry, to be recovered in a civil action in the name of the territory of Dakota.

§ 60. MONEY TO SCHOOL FUND.] All moneys which may be received by the board of county commissioners upon leases granted for ferries as aforesaid, and all forfeitures collected for violations of the provisions of this chapter, shall, within thirty days after the receipt thereof, be paid to the county treasurer, for the use of the public schools of the county, and the same shall be apportioned among the several districts of the county in like manner as other school funds are now by law apportioned.

§ 61. TEMPORARY FERRIES.] Nothing in this chapter shall prevent any person from ferrying persons and property across any small stream in time of high water, when, in the opinion of the board, such stream is too small to justify a regular ferry.

§ 62. FORFEITURE FOR NOT MAINTAINING.] Any and all persons who have heretofore received either permit, lease, grant or charter in any form, either from the legislative assembly, or any tribunal or board, for the keeping of a ferry or ferries, of any kind, who shall neglect or fail, during the

period of one month, at any one time after the passage of this or any prior act, to keep his or their respective ferry or ferries in operation, for the safe transportation of persons and property over the same according to law, shall forfeit all the ferry rights, franchises and privileges, and all right, title or claim to the same, granted by or under this law, or any former act as aforesaid; and upon due proof, made before the board of county commissioners of the proper county, of such failure or neglect, as aforesaid, the said board are empowered and authorized to declare such forfeiture absolute, and thereupon and thereafter all the rights, franchises and privileges granted by or under this law, or any previous law, as aforesaid, shall cease and be of no force or effect in law or equity.

OF ROAD SUPERVISORS.

§ 63. ROAD DISTRICTS—SUPERVISORS.] At the annual meeting of the county commissioners in January of each year, or as soon thereafter as practicable, it shall be the duty of the board of county commissioners of each of the organized counties of this territory to apportion their respective counties into one or more road districts, where such county is not at present formed into townships, and shall appoint for each district a road supervisor, who shall hold his office until the first of January succeeding his appointment, and shall take an oath to faithfully discharge his duties as such road supervisor.

§ 64. VACANCIES.] The board of county commissioners of each county shall have power to fill all vacancies, and shall fill all vacancies that may occur for any reason in the office of road supervisor.

§ 65. SUPERVISOR'S DUTIES.] The road supervisor of each road district, or township, shall obtain the names and make out a list of all male persons between the ages of twenty-one and fifty years, residing within each road district, which list shall be completed on or before the first day of March in each year, and in case any person as aforesaid shall locate in any road district after the first day of March, the supervisor shall enroll his name, and he shall be liable to labor on the road at the same time and in the manner that those originally enrolled are liable to labor, but any person who has labored that year in any road district and has a certificate thereof, shall be credited with the labor as performed, in the same manner as though the labor had been performed in the district in which he resides.

§ 66. ROAD POLL TAX.] Every male person between the ages of twenty-one and fifty years, shall be subject to a poll tax of one dollar and fifty cents, which must be paid in money or by one day's labor, in each year on the public highway within his road district, at the time and place directed by the road supervisor.

§ 67. SUPERVISORS ORDER WORK DONE.] The road supervisors must order out every person subject to road labor as aforesaid, between the first days of April and December, annually, to perform the work necessary on the public highways within their respective road districts.

§ 68. ROAD TAX WORKED—WHERE.] Any road tax levied by the board of county commissioners, in addition to the poll tax, may be worked out in

the road district in which such person resides, when it is a personal tax, or a tax on personal property; or in the road district where the real property is situate, on which the tax is levied, at the rate, in all cases, of one dollar and fifty cents per day.

§ 69. WORK CERTIFIED FOR TAX.] The road supervisor must obtain a list of all the road tax assessed on each individual; and a certificate by the supervisor for the amount worked out must be taken by the treasurer or collector of the county in payment to that amount of said tax.

§ 70. BOARD HOW TO EXPEND TAX.] The board of county commissioners must order the expenditure of all road tax paid into the county treasury in the improvement of the highways, paying the road supervisors, purchasing implements and repairing bridges, in each road district, under such regulations as they may deem most expedient for the public interest, and for this purpose shall order the payment of such sum by the treasurer to the parties performing such labor upon the certificate of the road supervisor: *Provided*, That such funds shall be expended in the road district in which the person resides when it is a personal tax, or a tax on personal property; and where the real estate is situate, where it is a tax on real estate.

§ 71. OBSTRUCTIONS IN HIGHWAY.] It shall be the duty of any road supervisor having personal knowledge of, or in being notified in writing of, any obstruction in the highway or public street in his district, to immediately remove or cause to be removed any such obstruction.

§ 72. PENALTY FOR OBSTRUCTING.] If any person or persons shall willfully, carelessly or negligently obstruct or injure any public highway, public street or bridge, it shall be the duty of the road supervisor of the district in which such obstruction is placed, or injury done, to enter complaint in behalf of the people against the person or persons so offending, before a justice of the peace of the county; and, on conviction thereof, the fine so collected shall be immediately paid over to the treasurer of the county for the benefit of the common schools.

§ 73. SUPERVISOR'S REPORT.] On or before the first Monday of January of each year, the several road supervisors shall each make a report to the board of county commissioners of his doings as such during the preceding year, the amount of labor performed, the number of days' labor necessarily performed by himself in the discharge of his duties, and the county commissioners shall thereupon cause a warrant on the county treasury to be drawn in favor of such supervisor for such services at one dollar and a half per day, payable from the common road fund belonging to said district in the county treasury.

§ 74. REFUSAL TO SERVE—PENALTY.] Every person who shall be elected or appointed a road supervisor according to the provisions of this chapter, and shall fail, refuse, or neglect to qualify as such road supervisor for thirty days after having been duly notified of his election or appointment, by the county clerk, shall forfeit the sum of ten dollars, to be collected upon a complaint made by any citizen before a justice of the peace of the county, together with all the costs of the prosecution, which forfeitures shall go into the common road fund of the district in which he resides.

## CHAPTER 30.

### THE MILITIA.

§ 1. WHO COMPOSE MILITIA.] All able-bodied male citizens, residents of this territory, being eighteen years of age and under the age of forty-five years, excepting persons exempt by law, shall be enrolled in the militia, and perform military duty in such manner, not incompatible with the constitution and laws of the United States, as hereinafter prescribed.

§ 2. TERRITORY—ONE DIVISION, COMMAND.] The territory shall constitute but one division, and shall be under the command of one brigadier-general and colonels, as the commander-in-chief may see proper, according to the census returns taken from time to time under the authority of law.

§ 3. GOVERNOR, COMMANDER IN-CHIEF—OFFICERS APPOINTED.] The governor of the territory shall be commander-in-chief, and shall have power to appoint the brigadier-general, colonels, majors, and all the commissioned officers necessary for the several regiments and companies, and the captains of the several companies shall have power to appoint all non-commissioned officers of their respective companies.

§ 4. SHERIFF MAKE LIST OF PERSONS.] It shall be the duty of the sheriff of each of the counties of this territory, when taking the census of their respective counties, to make out a list containing the names of all the persons in their respective counties, liable to perform military duty, and file a copy of such list with the register of deeds of the county, to be by him kept as a matter of reference, and also to transmit to the secretary of the territory a copy, to be by him kept as a matter of reference in his office: which copies shall be filed in the offices of the persons aforementioned, on or before the first day of January in each year.

§ 5. LIST—WHEN TAKEN.] The sheriff shall take a list of the persons liable to perform military duty at the time of making the assessment.

§ 6. WHEN AND HOW MILITIA LIABLE TO DUTY—RULES.] The militia thus enrolled shall be subject to perform no active military duty, save and except in case of war, invasion, or to prevent invasion, riot, or insurrection. In such case, the commander-in-chief is hereby authorized to order out, from time to time, for actual service, as many of the militia thus enrolled as necessity may require, and to provide for their organization in the manner hereinafter prescribed for the organization of volunteer militia: *Provided*, That, in all such cases, the enrolled volunteer militia shall first be ordered into service. The militia, while in active service,

shall be governed by the military law of the territory, and the rules and articles of war of the United States; and when any troops are in the field for the purposes aforesaid in this section, the senior ranking officer of the troops present shall take command: *Provided*, That no person shall be eligible to a command in the militia of this territory except citizens of the United States, or persons having declared their intention to become such.

§ 7. VOLUNTEER MILITIA.] The active militia of this territory shall be composed of volunteer companies, raised by order of the commander-in-chief within the limits of this territory. The volunteer militia shall, in all cases of war, invasion, riot, or insurrection, be the first military force ordered into the field.

§ 8. HOW COMPOSED.] Volunteer companies shall consist of men between the ages of eighteen and forty-five: *Provided*, No minor shall be enrolled as a member of such volunteer company, without the consent of his parent or guardian.

§ 9. COMPANIES, BATTALIONS AND REGIMENTS FORMED—DRILL.] Whenever, according to the provisions of this act, forty men shall be enrolled as members of a volunteer company of artillery, infantry, light-infantry, or rifle, or whenever thirty men shall be enrolled as members of a volunteer company of cavalry, such companies shall be officered by the commander-in-chief, as provided for in the third section of this chapter. No company shall be increased to more than one hundred members; and whenever a company becomes reduced to less than twenty members, it may be attached to another company, or disbanded, by order of the commander-in-chief: *Provided*, That whenever twenty men shall be enrolled as members of a light artillery company, they may proceed as provided in section 3. When two such light artillery companies are organized in any brigade, they may be formed into a battalion, under the command of a major and such subordinate officers as the commander-in-chief shall direct; and whenever three such companies of light artillery are organized in any brigade, they may be formed into a battalion under the command of a lieutenant-colonel and major, with such subordinate officers as the commander-in-chief may direct; and, whenever five such light artillery companies exist in any one brigade, they may, by order of the commander-in-chief, be formed and organized into a regiment, with a full complement of regimental officers. All such companies, battalions and regiments of light artillery, when organized, shall be armed and drilled, as near as practicable, in accordance with the system of the United States army for like organization.

§ 10. COMPANIES NUMBERED—RANK ] The several volunteer companies of cavalry, artillery, infantry, light infantry, and riflemen in this territory shall be numbered by the proper commandant of the brigade, and a record made of such numbers in his office, and in the adjutant general's office, and when they exist in sufficient numbers, and are conveniently located for the purpose, shall be organized into battalions and regiments, and officered as provided in section three of this act. And in all cases of the same description of arms, and the oldest organized uniform company,

those first commissioned shall be first and senior in rank, the next uniform company commissioned second in rank, and so on to the junior organized and commissioned company, dating from the first commissions issued to the officers of the company.

§ 11. RETURN BY COMMANDANTS—CONTENTS.] Every commandant of any volunteer independent company shall make a return of all non-commissioned officers, musicians and privates under his command, belonging to his company, and all the arms and accoutrements belonging thereto, to the commandant of his regiment, squadron or battalion; but, if his company does not form a part of any regiment, squadron or battalion, then he shall make return to the commandant of his brigade; but in either case, shall make his return on or before the first day of October in each year; and the commandants of each and every regiment, squadron or battalion shall make return to the commandant of brigade, on or before the first day of November, annually; and the commandant of brigade shall return to the commander-in-chief, on or before the first day of December in each year. All commandants named in this act shall make return of all commissioned and staff officers, non-commissioned staff officers, all members of volunteer or independent companies, all arms and accoutrements belonging to or in possession of their commandants, and all such returns shall be preserved by the adjutant general, in a book of records in his office; and an abstract thereof, showing the number of uniform volunteer militia, or active military of the territory, shall be by him forwarded to the war department at Washington city.

§ 12. TERM OF SERVICE.] Every non-commissioned officer and soldier of any volunteer company shall be held to duty therein for two years, unless some absolute disability shall occur after forming such company, or shall be discharged by the proper officer; and every such person, after the expiration of said term, and every commissioned officer, after serving a similar term, in conformity with the provisions of this act, shall be entitled to a certificate of such service; and such certificate shall be given to all such persons under the rank of brigadier-general, by general of brigade, and, if there be no brigadier, by officers of any brigade in command; and the holders of of such certificates shall be exempt from military duty in time of peace: *Provided*, That if any officer or person shall knowingly grant, issue or use any illegal certificate under the provisions of this act, such officer or person shall be deemed guilty of misdemeanor, and subject to pay a penalty in amount not less than five nor more than fifty dollars for each offense, to be collected before any court having competent jurisdiction, and when collected, to be paid into the military fund in the county where the offense was committed.

§ 13. COMPANIES, CONSTITUTION AND BY-LAWS.] Each volunteer company, organized under the provisions of this act, may adopt such constitution and by-laws as a majority of such company may approve, which shall be binding on all who sign the same; and when any fines are assessed, by reason of any infraction of such constitution and by-laws, such company may have process before any competent court of jurisdiction, in the name

of the United States, for the use of such company, and prosecute to final judgment and execution all such fines and penalties provided for by such constitution or by-laws: *Provided*, That said constitution and by-laws are not inconsistent with the provisions of this chapter, or the constitution of the United States, or the act organizing the territory of Dakota: *Provided, also*, That in no case will the territory pay any costs of such prosecution.

§ 14. MILITARY COMMISSIONS.] All the military commissions issued, except the quartermaster-general, adjutant-general, paymaster-general and aide-de-camp to the commander-in-chief shall expire in two years from the date thereof: *Provided*, That any officer holding a commission under the provisions of this chapter, who may be reappointed to the same office, shall retain the same rank as he was entitled to under his former commission: *Provided, also*, That nothing in this chapter shall be so construed as to disqualify any staff officer or any officer of the line from holding a commission after he may have arrived at the age of forty-five years: *And further provided*, That every officer who shall remove out of the bounds of his command, or who shall be absent from his command without leave of the commanding officer of his brigade, shall be considered as having vacated his office, and a new appointment shall be made without delay, to fill the vacancy so created: *Provided*, That nothing in this act shall be so construed or understood as to prevent any appointed officer from being removed from his office whenever, in the opinion of the officer appointing him, he shall deem it advisable to remove him.

§ 15. ANNUAL MUSTER.] There shall be held, once in each year, a brigade muster and encampment of all the volunteer militia in the territory, commencing at ten o'clock a. m., and continuing not more than four nor less than two days. Said muster and encampment shall be held at the most suitable place, to be selected by the commandant of brigade, and the officers and soldiers forming such encampment shall be drilled in accordance with the requirements of the rules and usages of the United States army; and the commandant of the brigade shall give thirty days' public notice of the time and place of such muster, which shall be held in the month of July, August or September.

§ 16. WHAT ENTITLES OFFICER TO COMMAND.] All officers appointed according to the provisions of this chapter shall be entitled to a certificate from the officer making such appointment, which certificate and taking the necessary oath shall entitle such officer to command; and to perform such other duties as may pertain to the office to which he is appointed, until the commission can be procured; and in all cases, the officers giving such certificate shall administer to such officer the necessary oath of office, and indorse the same upon the back of his certificate with the day and date on which such oath was administered: *Provided, also*, That every staff officer who may be appointed shall also be entitled to a certificate in like manner.

§ 17. RESIGNATIONS.] For good cause shown, the commander-in-chief may accept the resignation of brigadier-generals, and the brigadier-gen-

eral may accept the resignation of colonels, or the commandants of regiments, lieutenant-colonels, majors, captains and lieutenants; and for good cause shown, the commandant of any regiment, squadron, or battalion, shall accept the resignation of any regimental, squadron, or battalion staff officer: *Provided, also,* That the brigadier-general may accept the resignation of his staff officers; and in all cases when a resignation is accepted, the cause of such resignation shall be indorsed by the officer accepting the same, on the back of the commission so resigned; but the command of such officer shall not cease until the officer accepting such resignation shall have indorsed his acceptance.

§ 18. STAFF OFFICERS APPOINTED.] To each brigade there shall be one brigade major—to serve as brigade inspector—two aides-de-camp, one brigade quartermaster, one brigade engineer, one brigade judge advocate, one brigade surgeon and one brigade chaplain, which brigade staff shall be appointed by the commander-in-chief. To each regiment or battalion of artillery, rifle, light infantry, or infantry, there may be one chaplain, one adjutant, one quartermaster, one surgeon, one surgeon's mate, one sergeant-major, one quartermaster-sergeant, one drum-major, and one fife-major, to be appointed by the commandant of such regiment or battalion. To each regiment or battalion of cavalry there shall be one adjutant, one quartermaster, one paymaster, one surgeon, one surgeon's mate, one quartermaster-sergeant, one sergeant-major, and two regimental or squadron buglers, which shall be appointed by the commandant of such regiment or squadron.

§ 19. STAFF OFFICERS RANK.] The staff officers herein enumerated shall rank as follows, namely: The quartermaster-general and adjutant-general as brigadier-generals; the paymaster-general, engineer-in-chief, judge advocate general, and aides-de-camp to the commander-in-chief, as colonels; the aides-de-camp to brigadier-generals, chaplains and surgeons, as captains; company ensign, adjutants, quartermasters, paymasters, surgeon's mates of regiments, battalions, and squadrons, as lieutenants; and all other regimental or squadron staff, as non-commissioned officers.

§ 20. OFFICER'S UNIFORM.] The uniform of the respective officers herein mentioned shall be the same as the uniform of the officers in the United States army.

§ 21. OF COMPANY MUSTERS.] Each company shall muster as often as twice in each year, independent of the general muster.

§ 22. OFFICER TO TAKE OATH.] Each officer, before he enters upon the discharge of his duty, shall take and subscribe an oath to support the constitution of the United States, the provisions of this chapter, and the act organizing the territory of Dakota, and to faithfully and impartially discharge his duty to the best of his ability.

§ 23. OFFICERS AND PRIVATES TRIED—HOW.] Officers and privates shall be tried for misdemeanors and offenses in the same manner as provided in the army regulations of the United States.

## CHAPTER 31.

### MINES AND MINING.

#### LOCATION AND SIZE OF LODES AND MINING CLAIMS.

§ 1. LENGTH OF LODE.] The length of any lode claim hereafter located within this territory, may equal, but shall not exceed, fifteen hundred feet along the vein or lode.

§ 2. WIDTH OF LODE.] The width of lode claims shall be one hundred and fifty feet on each side of the center of the vein or crevice: *Provided*, That any county may, at any general election, determine upon a greater width not exceeding three hundred feet on each side of the center of the vein or lode, by a majority of the legal votes cast at said election, and any county, by such vote at such election, may determine upon a less width than above specified: *Provided*, That not less than twenty-five feet on each side of the vein or lode shall be prohibited.

§ 3. DISCOVERER TO RECORD HIS CLAIM.] That the discoverer of a lode shall, within twenty days from the date of discovery, record his claim in the office of the register of deeds of the county in which such lode is situated, by a location certificate, which shall contain:

1. The name of the lode.
2. The name of the locator.
3. The date of location.
4. The number of feet in length claimed on each side of the discovery shaft.
5. The number of feet in width claimed on each side of the vein or lode.
6. The general course of the lode as near as may be.

§ 4. WHEN CERTIFICATE VOID.] Any location certificate of a lode claim which shall not contain the name of the lode, the name of the locator, the date of location, the number of lineal feet claimed on each side of the discovery shaft, the number of feet in width claimed, the general course of the lode, and such description as shall identify the claim with reasonable certainty, shall be void.

§ 5. MANNER OF LOCATING CLAIM.] Before filing such location certificate the discoverer shall locate his claim by first sinking a discovery shaft thereon sufficient to show a well defined mineral vein or lode; second, by posting at the point of discovery, on the surface, a plain sign or notice

containing the name of the lode, the name of the locator and the date of discovery, the number of feet claimed in length on either side of the discovery, and the number of feet in width claimed on each side of the lode: third, by marking the surface boundaries of the claim.

§ 6. MARKING SURFACE BOUNDARIES.] Such surface boundaries shall be marked by eight (8) substantial posts, hewed or blazed on the side or sides, facing the claim, and sunk in the ground, to-wit: One at each corner, and one at the center of each side line, and one at each end of the lode. When it is impracticable on account of rock or precipitous ground to sink such posts, they may be placed in a monument of stone.

§ 7. REQUISITE OF LOCATION.] Any open cut, cross cut or tunnel, at a depth sufficient to disclose the mineral vein or lode, or an adit of at least ten (10) feet in along the lode, from the point where the lode may be in any manner discovered, shall be equivalent to a discovery shaft.

§ 8. TIME DISCOVERER HAS TO PERFORM LABOR.] The discoverer shall have thirty days from the time of uncovering or disclosing a lode, to sink a discovery shaft thereon.

§ 9. CERTIFICATE CONSTRUED TO CONTAIN.] The location or location certificate of any lode claim shall be construed to include all surface ground within the surface lines thereof, and all lodes and ledges throughout their entire depth, the top or apex of which lie inside of such lines extended vertically, with such parts of all lodes or ledges as continue, by dip beyond the side lines of the claim, but shall not include any portion of such lodes or ledges beyond the end lines of the claim or the end lines continued, whether by dip or otherwise, or beyond the side lines in any other manner than by the dip of the lode.

§ 10. CLAIM NOT BEYOND EXTERIOR LINES.] If the top or apex of the lode in its longitudinal course extends beyond the exterior lines of the claim at any point on the surface, or as extended vertically downward, such lode may not be followed in its longitudinal course beyond the point where it is intersected by the exterior.

§ 11. CLAIMS SUBJECT TO RIGHT OF WAY. All mining claims now located, or which may be hereafter located, shall be subject to the right of way of any ditch or flume for mining purposes, or of any tramway or pack-trail which is now in use, or which may be hereafter laid out across any such location: *Provided always*, That such right of way shall not be exercised against any location duly made and recorded, and not abandoned prior to the establishment of the ditch, flume, tramway or pack-trail without consent of the owners except by condemnation, as in case of land taken for public highways; parol consent to the location of any such easement, accompanied by the completion of the same over the claim, shall be sufficient without writing; *And provided further*, That such ditch or flume shall be so constructed that the water from such ditch or flume shall not injure vested rights by flooding or otherwise.

§ 12. OWNER MAY DEMAND SECURITY FROM MINER.] When the right to mine is in any case separate from the ownership or right of occupancy to the surface, the owner or rightful occupant of the surface may demand satis-

factory security from the miner, and if it be refused, may enjoin such miner from working until such security is given. The order for injunction shall fix the amount of bond.

§ 13. FILING AN AMENDED CERTIFICATE.] If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing, or shall be desirous of changing his surface boundaries, or of taking in any part of an overlapping claim which has been abandoned, or in case the original certificate was made prior to the passage of this law, and he shall be desirous of securing the benefit of this act, such locator or his assigns may file an additional certificate subject to the provisions of this act: *Provided*, That such relocation does not interfere with the existing rights of others at the time of such relocation, and no such relocation or the record thereof shall preclude the claimant or claimants from proving any such title or titles as he or they may have held under previous locations.

§ 14. WORK PERFORMED ANNUALLY.] The amount of work to be done or improvements made during each year to hold possession of a mining claim, shall be that prescribed by the laws of the United States, to-wit: One hundred dollars annually.

§ 15. AFFIDAVIT OF LABOR TO BE MADE.] Within six months after any set time or annual period herein allowed for the performance of labor or making improvements upon any lode claim, the person on whose behalf such outlay was made, or some person for him, shall make and record an affidavit in substance, as follows:

TERRITORY OF DAKOTA, }  
County of ..... } ss.

Before me the subscriber personally appeared, ....., who being duly sworn, says at least ..... dollars worth of work or improvements were performed or made upon (here describe claim or claims, or part thereof,) prior to the .... day of ....., A. D. 18..., situate in ..... mining district, county of ....., Territory of Dakota. Such expenditure was made by or at the expense of ....., owner of said claim, for the purpose of holding said claim.

(Jurat.)

(Signature.)

And such certificate when recorded in the office of the register of deeds of the county wherein such claim is located, shall be *prima facie* evidence of the performance of such labor.

§ 16. RELOCATING ABANDONED CLAIMS.] The relocation of abandoned lode claims shall be by sinking a new discovery shaft, and fixing new boundaries, in the same manner as if it were the location of a new claim, or the relocater may sink the original shaft, cut or adit to a sufficient depth to comply with sections five and seven of this chapter, and erect new or adopt the old boundaries, renewing the posts if removed or destroyed. In either case, a new location stake shall be erected. In any case, whether the whole or part of an abandoned claim is taken, the location certificate must state that the whole or any part of the new location is located as abandoned property.

§ 17. ONE CERTIFICATE, ONE LOCATION.] No location certificate shall claim more than one location, whether the location be made by one or several locators; and if it purport to claim more than one location, it shall be absolutely void, except as to the first location therein described; and if they are described together, or so that it cannot be told which location is first described, the certificate shall be void as to all.

§ 18. FEE FOR RECORDING.] The register of deeds shall be entitled to receive the sum of one dollar for each location certificate recorded and certified by him, and shall furnish the locator or locators with a certified copy of such certificate when demanded, for which he shall be entitled to receive fifty cents.

#### DISPUTED MINING PROPERTY.

§ 19. JUDGE MAY ORDER SURVEY OF MINE—LIMITATIONS.] In all actions in any district court of this territory, wherein the title or right of possession to any mining claim shall be in dispute, the said court, or the judge thereof, may, upon application of any of the parties to such suit, enter an order for the under-ground as well as surface survey of such part of the property in dispute as may be necessary to a just determination of the question involved. Such order shall designate some competent surveyor not related to any of the parties to such suit, or in anywise interested in the result of the same; and upon the application of the party adverse to such application, the court may also appoint some competent surveyor, to be selected by such adverse applicant, whose duty it shall be to attend upon such survey, and observe the method of making the same; said second survey to be at the cost of the party asking therefor. It shall also be lawful in such order to specify the names of witnesses named by either party, not exceeding three on each side, to examine such property, who shall be allowed to enter into such property and examine the same; such court, or the judge thereof, may also cause the removal of any rock, debris, or other obstacle in any of the drifts or shafts of said property, when such removal is shown to be necessary to a just determination of the question involved; *Provided, however,* That no such order shall be made for survey and inspection, except in open court or in chambers, upon notice of application of such order of at least six days, and not then except by agreement of parties, or upon the affidavit of two or more persons that such survey and inspection is necessary to the just determination of the suit, which affidavits shall state the facts in such case, and wherein the necessity for survey exists; nor shall such order be made unless it appears that the party asking therefor had been refused the privilege of survey and inspection by the adverse party.

§ 20. JUDGE TO ISSUE WRITS OF INJUNCTION.] The district courts, or any judge thereof, sitting in chancery, shall have, in addition to the power already possessed, power to issue writs of injunction for affirmative relief, having the force and effect of a writ of restitution, restoring any person or persons to the possession of any mining property from which he or they may have been ousted by force and violence, or by fraud, or from

---

which they are kept out of possession by threats, or whenever such possession was taken from him or them by entry of the adverse party on Sunday, or a legal holiday, or while the party in possession was temporarily absent therefrom. The granting of such writ to extend only to the right of possession under the facts of the case, in respect to the manner in which the possession was obtained, leaving the parties to their legal rights on all other questions as though no such writ had issued.

CHAPTER 32.  
LOGS AND LUMBER.

§ 1. **LAWFUL TO BOOM LOGS IN NAVIGABLE RIVERS.]** It shall be lawful for any person having logs or lumber in any stream navigable for water crafts, in this territory, to boom such logs or lumber along the shore, and to secure the boom by means of piles driven in the stream, or by chains, ropes, timber or traverse poles, made fast at points along the shore: *Provided*, That there shall be at all times sufficient channel left clear for the free passage of any crafts or rafts usually navigating such streams.

## CHAPTER 33.

### POLICE OF THE TERRITORY.

#### OF THE SETTLEMENT AND SUPPORT OF THE POOR.

§ 1. COUNTY COMMISSIONERS OVERSEERS.] The county commissioners of the several counties of this territory shall be the overseers of the poor within their several counties, and shall perform all the duties with reference to the poor within their respective counties, that may be prescribed by law.

§ 2. HOW DESIGNATED.] That every board of county commissioners shall, in discharging the duties imposed by this act, be designated as overseers of the poor.

§ 3. SUITS AGAINST.] 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.

§ 4. EVERY COUNTY SHALL RELIEVE ITS POOR.] 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 nineteen section of this act is provided.

§ 5. LEGAL SETTLEMENTS ACQUIRED—MARRIED WOMEN AND CHILDREN.] 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:

1. 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.

2. 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.

3. 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 nor illegitimate children shall gain a settle-

ment by birth in the place where they were born, unless their parent or parents had a settlement therein at the time.

4. 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.

5. 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.

6. 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 where his or her master or mistress has a settlement.

7. 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 settlements 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 heretofore as after.

§ 6. OVERSEERS HAVE CARE OF POOR.] 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.

§ 7. DUTY OF OVERSEERS.] 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 April 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, an 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, at their regular meeting beginning on the said first Monday in April; but nothing herein contained shall prohibit any overseers of the poor from receiving and accepting propositions, at any time, for the keeping of 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 fulfil their obligations to the said poor.

§ 8. COMMISSIONERS MAY ALLOW AND PAY IN THEIR DISCRETION.] 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.

§ 9. DUTY OF, ON COMPLAINT.] 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 necessities 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.

§ 10. POOR BOOK.] 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.

§ 11. APPEAL TO DISTRICT JUDGE.] 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 the district court of the county or judicial subdivision 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.

§ 12. WHEN SETTLEMENT UNCERTAIN.] 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.

§ 13. TEMPORARY RELIEF TO CERTAIN POOR.] 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.

§ 14. JUSTICE OF PEACE MAY ISSUE WARRANT.] 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.

§ 15. **WHEN POOR PERSON FEELS AGGRIEVED—PROCEEDINGS.]** 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 district court of the county or judicial subdivision 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.

§ 16. **APPEAL—HOW HEARD.]** 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 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.

§ 17. **WHEN ORDER IS DEFECTIVE.]** 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.

§ 18. **WHEN REMOVED.]** If any person be removed by virtue of the provisions of this chapter, from any county, to any other place within this territory, by warrant or order under the hand 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.

§ 19. **OVERSEERS SHALL MAKE A RETURN TO CLERK.]** 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.

§ 20. **PAY OF OVERSEERS.]** The overseers of the poor in each county 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.

§ 21. **SHALL SUBMIT ACCOUNTS—WHEN.]** 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.

§ 22. WHEN NON-RESIDENT IS SICK OR DIES.] 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 have money or 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.

§ 23. SPECIAL ELECTION TO PURCHASE ASYLUM.] 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 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.

§ 24. DUTY OF SUPERINTENDENT.] 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.

§ 25. SHALL APPOINT A PHYSICIAN—COMPENSATION.] 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.

§ 26. TO BIND OUT POOR CHILDREN.] 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.

§ 27. BOARD ASSESS TAX TO PURCHASE POOR FARM.] 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-three of this act, and a majority of all the votes cast at said poll be in favor of such assessment.

§ 28. ALL POOR GO TO ASYLUM.] 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.

§ 29. SUPERINTENDENTS GIVE BOND.] 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.

§ 30. CHILDREN TO BE EDUCATED.] 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.

§ 31. SUPERINTENDENCE THEREOF.] 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 continuance of its session.

§ 32. DISCONTINUANCE OF ASYLUM.] 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.

§ 32. BOARD MAY LEVY POOR TAX.] The board of county commissioners may, in the several counties, 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 county revenue, who shall pay the same into the county treasury.

§ 34. APPEALS FROM JUSTICE OF PEACE.] 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.

§ 35. BOARD APPOINTS VISITORS.] The board of county commissioners 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.

§ 36. COMPENSATION.] Such visitors shall receive such compensation as the said board shall adjudge reasonable.

§ 37. SENDING PAUPER OUT OF COUNTY UNLAWFUL.] 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 chapter.

§ 38. PENALTY.] Any person who shall violate the provisions of the preceding section, 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.

#### BRINGING PAUPERS INTO A COUNTY.

§ 39. PENALTY FOR BRINGING IN PAUPERS.] Every person who shall bring into and leave any pauper in any county wherein such pauper is not lawfully settled, knowing such person to be a pauper, shall forfeit and pay the sum of one hundred dollars for every such offense, to be sued for and recovered by and to the use of such county, by an action in the name of the county; and no property shall be exempt from seizure and sale in such cases, and it shall be the duty of the board of county commissioners of the several counties to institute suits for all violations of this section; and any such sum, when collected, shall be paid into the county treasury for the use of the county.

## OF THE CARE OF THE INSANE.

§ 40. GOVERNOR CONTRACTS FOR CARE.] The governor of this territory is authorized, and it is hereby made his duty, from time to time, to enter into contract with the States of Minnesota, Iowa or Nebraska, or either of them, as in his judgment will be most economical and advisable, for the keeping, maintaining, treating and the custody and care in an asylum in one of said States, of persons declared lunatics, from this territory.

§ 41. TERRITORIAL ASYLUM.] After such contract is made with the proper authorities of such state, the asylum of such state with which such contract is made, shall be the insane asylum for this territory, and any person who, under the provisions of any law now in force, or that may be hereafter enacted, shall be declared or adjudged a lunatic, or insane, and a proper subject for confinement in a lunatic asylum may be, by the proper officer or person, by direction of the lawful authority, taken to and confined in such asylum, the same as though such asylum were located within this territory.

§ 42. ALL PAST AND FUTURE ACCOUNTS TERRITORIAL CHARGE.] It shall be the duty of the auditor of this territory to audit all accounts having accrued under the provisions of law for the keeping and care of lunatics, or that shall accrue for taking to confinement in, and caring for lunatics in, the insane asylum for the territory.

§ 43. VERIFICATION OF ACCOUNTS.] Such accounts shall be verified by the owner thereof, and approved by the probate court by whose order the person was confined, for whose keeping the charge is made: *Provided*, That persons who are so confined, that have estates, such estates shall be liable for their keeping.

§ 44. PROBATE JUDGE DECIDES SANITY.] Upon the filing of a verified petition in the office of the judge of probate, setting forth that any citizen of that county is insane, it shall be his duty to investigate the matter at once, as directed by law, and, if adjudged insane, the court may order that such person be confined in the insane asylum.

## CHAPTER 34. DOMESTIC ANIMALS.

### MARKS AND BRANDS.

§ 1. RECORD OF MARKS AND BRANDS.] It shall be the duty of the register of deeds of each county, upon application of any person residing in such county, to record a description of the marks or brands, with which such person may be desirous of marking his horses, cattle, sheep, or hogs; but the same mark or brand shall not be recorded for more than one resident of the same county.

§ 2. USING RECORDED MARK—PENALTY.] If any person shall willfully mark any of his horses, cattle, sheep, or hogs, with the same mark or brand previously recorded by any resident of the same county, and while the same mark shall be used by such resident, the person so offending shall forfeit for every such offense the sum of five dollars, to be recovered before any justice of the peace of such county. If any person shall willfully mark or brand the cattle, horses, sheep, or hogs of any other person with his own mark or brand, the person so offending shall forfeit, for every such offense, not less than ten nor more than fifty dollars; and if any person shall willfully destroy or alter any mark or brand upon any horse, cattle, sheep, or hog, belonging to another, the person so offending shall, upon conviction thereof, forfeit and pay for every such offense, a sum not less than ten nor more than fifty dollars, and shall, in addition, pay to the party injured double damages, and the costs.

### OF ESTRAYS.

§ 3. ESTRAYS TAKEN BY RESIDENT ONLY.] No person shall take up an estray animal except in the county wherein he or she resides, and is a householder, or holds a claim under the pre-emption or homestead laws, nor unless the same be found in the vicinity of his or her claim or place of residence: *Provided*, That this shall not be so construed as to prevent taking up of any estray found in the uninhabited parts of this territory, and at a distance of ten miles from any habitation.

§ 4. LIMITATION IN TIME.] No person shall take up any estray animal mentioned in the next section between the first day of October and thirty-first day of March inclusive, unless the same be found trespassing upon the premises or within the inclosure of the person taking up the same.

§ 5. PUBLISHING ESTRAY NOTICE.] Every person who shall take up any estray horse, mare, colt, mule, ass, or any head of neat cattle, sheep, hog or goat, shall within fifteen days thereafter give notice of the finding and taking up of such animal, by posting a written advertisement thereof, with a description of such estray, and the marks and brands thereon, in three public places in the county wherein he resides, or by publishing such advertisement three times in a weekly newspaper, if there is a newspaper published in the county in which the estray is taken up, and if the same be not called for or claimed by any person within twenty-two days after the posting of such notice, or within three weeks after the first insertion of such notice in a newspaper, the person taking up such estray animal shall go before some justice of the peace of the county wherein he resides, and make oath that such animal was found estray by him, and the place where the same was found, that the marks and brands thereon have not been effaced or altered by him since the taking up, and that he hath duly advertised the same as required by law; every such affidavit shall be made and subscribed in the docket of such justice, and shall be sufficient proof of the advertisement of such estray as herein required.

§ 6. JUSTICE'S APPRAISEMENT JURY.] Such justice of the peace shall thereupon issue his warrant to three disinterested householders of the county, unless their attendance may be otherwise had, commanding them to attend at such place as may be therein mentioned, to appraise such estray; the appraisers so appointed, or any two of them, shall thereupon proceed to appraise such estray, and upon the completion of such appraisement, shall attend before the justice and report their appraisement in writing, to be subscribed and sworn to by them, setting forth a description of the estray appraised, the marks and brands thereon, the name and place of residence of the person taking the same up, and that the appraised value of such estray is a fair and true valuation thereof, and the justice shall thereupon enter such certificate in his docket.

§ 7. JUSTICE PUBLISHES DESCRIPTION.] Upon the completion of such appraisement as aforesaid, the justice of the peace before whom the appraisement is had, shall forthwith post in three of the most public places in his county, or publish three times in a newspaper if there is a newspaper published in the county, a notice of the taking up of such estray, with a description thereof and of the marks and brands thereon, and the name and place of residence of the person taking up the same.

§ 8. REPORT TO REGISTER.] Such justice shall also transmit a copy of such affidavit or certificate of the appraisers, certified by him to be a true copy from his docket, to the register of deeds of his county within ten days after the completion of such appraisement.

§ 9. RECORD OF APPRAISEMENT.] Every register of deeds upon receiving any such certified copy of such appraisement shall forthwith cause the same to be recorded in a book to be kept in his office, to be entitled the "estray register."

§ 10. TWO OR MORE ANIMALS.] If two or more animals are taken up at the same time by the same person, both and all thereof shall be numbered in

the same advertisement and appraisement, and the same fees are allowed as for the advertisement or appraisement of one estray.

§ 11. CLAIMANT MUST PAY CHARGES.] Whenever any person shall appear and make claim to any estray so taken up, such claimant and the person taking up such estray shall go before the justice of the peace before whom such appraisement was had, or some other justice of the peace of the county, and such claimant shall make affidavit in writing, subscribed by him, setting forth his name and place of residence and that he is the owner of such estray, describing it, and thereupon the person taking up such estray shall be authorized to deliver the same to such claimant upon payment of all fees advanced by him, and his reasonable charges for keeping and caring for such estray. If the parties cannot agree as to the amount of such charges, the same shall be assessed by such justice of the peace and such assessment shall be final. Every affidavit required by this section shall be made and recorded upon and within the docket of such justice of the peace.

§ 12. DISPOSITION OF ESTRAY.] If any such estray be not claimed and taken away within one year after the appraisement thereof, as hereinbefore provided, and if the person taking up such estray shall have caused the same to be advertised and appraised, as herein provided, and shall not in other respects have violated the provisions of this subdivision of this chapter, and if the appraised value of such estray does not exceed fifty dollars, the property therein shall immediately vest in the person taking the same up.

§ 13. IF WORTH OVER FIFTY DOLLARS.] If the appraised value of any estray exceeds fifty dollars, and the same is not called for within one year after the appraisement thereof, the person taking up such estray shall notify some justice of the peace of the county, and such justice shall appoint a day and place for the sale thereof, and cause notices of such sale to be posted in three public places in the county, at least twenty-two days before such day so appointed, or shall cause such notice of such sale to be published three times in a weekly newspaper, if there is one published in the county, and on the appointed day the person taking up such estray shall have the same present at the place fixed by the justice, and the justice shall proceed to sell such estray at public auction for cash, and after paying the proper fees and charges for taking up such estray and caring for and keeping the same, to be fixed by such justice, and the fees advanced for the appraisement and advertisement of such estray, as herein provided, and after deducting the fees allowed such justice for such sale, and the advertisement thereof, the residue of the proceeds of such sale shall be paid to the county treasurer, who shall receipt to the justice therefor.

§ 14. TREASURER DISPOSES OF MONEY.] All moneys so deposited with the county treasurer shall by him be retained in the treasury for six months thereafter, separate and apart from all other moneys; and if the owner of any such estray so sold as aforesaid shall, within such period, appear before the board of county commissioners and establish his title to such

estray, such board of commissioners shall order the amount so paid into the treasury to be refunded to such owner; if no such owner appear within six months after the deposit of any such sum of money as herein provided, the same shall be passed to the school fund of the county, and shall be accounted for and expended as other school moneys are.

§ 15. DESCRIPTION FILED.] Whenever any sum of money is paid into the county treasury by virtue of the thirteenth section, the justice paying the same shall deliver to the treasurer a certificate setting forth a description of the estray, from the sale of which the same was obtained and the marks and brands on such estray, and the name of the person by whom such animal was delivered to him to be sold; and such certificate shall by the treasurer be filed and preserved in his office, to the end that the right of the owner of such estray to receive such sum of money may be readily established.

§ 16. FEES A FIRST LIEN.] The fees of justices of the peace, advertising and appraisers shall be paid by the person taking up the estray, but the same shall constitute a first lien upon the estray, and shall be paid by the owner before he shall be entitled to take away such estray.

§ 17. UNLAWFUL TAKING—PENALTY.] If any person not authorized so to do, shall take up any estray or lost goods, or if any person taking up any such estray or any lost goods shall willfully neglect to cause the same to be advertised and appraised as herein provided or shall work or use any such estray beast, except in a prudent manner, and so as not to injure the same, or shall, when working such beast fail to sufficiently feed and properly care for the same, every such person so offending shall forfeit twenty-five dollars to the owner of such estray, to be recovered by action of debt before any justice of the peace: *Provided, however,* That such action shall not be a bar to an action commenced by the owner of such estray against the person taking up the same, if such animal should receive a permanent injury or be rendered useless because of ill treatment inflicted, or neglect received from the person taking up such estray.

§ 18. WORK OF ESTRAY.] Any person taking up any estray may work and use the same in a prudent manner and so as not to injure the same, but during the time of working and using such estray shall not be allowed to charge or receive any compensation for the keeping thereof.

§ 19. LOSS OF ESTRAY.] If any estray after being duly advertised and appraised as herein provided, shall, without the fault of the person taking up the same, die, or be stolen, or escape and wander away, the person taking the same up shall not be responsible therefor.

§ 20. SALE AT COUNTY SEAT.] The place of sale of estrays under this chapter shall be at the county seat of the county in which the estray is appraised.

#### OF LOST GOODS.

§ 21. PROCEEDINGS SAME AS ESTRAYS.] The manner of taking up, appraising, advertising and disposing of any lost goods or personal property which may be found upon the highway or in any other place, shall be the same as herein provided for estrays.

## CHAPTER 35.

### SALE OF INTOXICATING LIQUORS.

§ 1. BOND AND LICENSE REQUIRED.] It shall be unlawful for any person by himself, by agent, or otherwise, to sell in any quantity, intoxicating liquors to be drunk in, upon, or about the premises where sold, or to sell such intoxicating liquors to be drunk in any adjoining room, building, or premises, or other place of popular resort, connected with said premises where sold, without having first obtained a license and given bond as hereinafter provided.

§ 2. BOARD GRANTS LICENSE—LIMITATIONS.] All applications for license to sell intoxicating liquors shall be made to the board of county commissioners, and shall be granted by said board if they deem it expedient and the applicant a proper person to engage in the same; and no license shall run for a longer period than one year, without renewal.

§ 3. LICENSE FEE, PENALTY AND CONDITIONS OF BOND.] Before any license is issued the applicant shall produce the receipt of the county treasurer showing that he has paid into the county treasury the amount fixed by the board for such license, to be at the rate of not less than thirty dollars nor more than three hundred dollars per year, and execute and deliver to said board his bond to the territory of Dakota, which shall be in the penal sum of five hundred dollars, with at least two good and sufficient surety, to be approved by the board of county commissioners, conditioned that the person applying for the license shall keep a quiet and orderly house; that he will not permit any gambling in, upon, or about the premises where the intoxicating liquors are sold, or in any adjoining room, building or premises, or other place of popular resort connected with said premises where sold, and shall well and faithfully keep and observe the laws of the territory and the provisions of any ordinances or regulations of the municipality wherein such business shall be conducted, relating to the keeping of saloons, taverns and the sale of intoxicating liquors, and shall close his place or house of business at the hour of eleven-thirty o'clock p. m., every night.

§ 4. HABITUAL INTOXICATION—NOTICE—PENALTY.] Any wife, mother, father, son, daughter, sister or other relative of a person who is in the habit of getting intoxicated, or the county commissioner, or the mayor of any city, may make complaint to any justice of the peace of the county where such person resides, or may be staying, alleging the name or names of the

person or persons from whom said person having such habit obtains his liquor, as such relative believes, and thereupon said justice of the peace shall, without charge therefor, issue a notice in writing to such person or persons so named, notifying him or them that no intoxicating liquors of any kind must be sold or given away by him or them, or at his or their place of business, to such person having such habit, and which notice must at once be served upon such person or persons, as summons' are served from justices' courts, and after the service of such notice if any person or persons so notified shall sell, give away, or permit any person at his place of business to sell or give away any intoxicating liquors to such person about whom he or they have received notice as aforesaid, his license to sell liquors shall from that time be deemed and held to be cancelled and annulled, and said person so selling or giving away shall be fined in any sum not less than one hundred dollars, and not more than five hundred dollars, and be liable in a civil action at the suit of such relative to pay him, her or them the sum of five hundred dollars damages for each offense, and no property of any kind shall be exempt from payment of such fine or damages.

§ 5. CONVICTION REVOKES BOND.] When any person so licensed shall be convicted of a violation of any of the provisions of this chapter or of the penal statutes of this territory relating to the sale of intoxicating liquors; or shall violate any of the conditions of said bond, the board of county commissioners may, and it is hereby made their duty, to revoke such license, but such revocation shall not be construed to discharge such licensee or his sureties from liability on such bond for any damage sustained by or right accrued to any person prior to such revocation.

§ 6. COUNTY, TOWN AND CITY AUTHORITY.] It shall be competent and lawful for any incorporated town or city, within the county where such bond is filed and license granted, to prohibit the party so licensed, as well as all others, from engaging in the business of selling intoxicating liquors to be drunk in, upon, or about the premises where sold, within the corporate limits, until he shall obtain from the town or city authorities a license, and pay into the town or city treasury such sum as may be fixed by ordinance, to be not less than thirty dollars nor more than three hundred dollars: *Provided*, That no additional bond shall be required; nor shall any license be granted by the authorities of any such town or city to any one who has not filed the required bond with the board of county commissioners, and obtained from such board a license: *And provided further*, That no license granted by any such town or city shall run for a longer period than the license granted by said board, and the revocation of the county license by the board of county commissioners shall work a revocation of any license granted under the provisions of this section.

§ 7. BOTH MAY REQUIRE LICENSE FEE.] It shall be competent and lawful for both the board of county commissioners of any county, and also the mayor and city council, or other authorities of any town or city situated therein, to require the payment of the license herein provided, and the granting of the power to license or tax in any city or town charter shall

not be held as conflicting in any way with the provisions of this act, the intention being to allow both the county and town or city authorities to levy and collect a license for the sale of intoxicating liquors as herein provided, or as provided by the charter or ordinances of such town or city.

§ 8. CARE OF INTOXICATED PERSON.] Every person who shall, by the sale of intoxicating liquors, with or without a license, cause the intoxication of any other person, shall be liable for and compelled to pay a reasonable compensation to any person who may take charge of and provide for such intoxicated person, which sum may be recovered in an action of debt.

§ 9. GIVING IS SELLING.] The giving away of intoxicating liquors, or other shift or device to evade the provisions of this chapter, shall be deemed and held to be an unlawful selling within the provisions of the the same.

§ 10. VIOLATION A MISDEMEANOR.] Every person selling intoxicating liquor in violation of the provisions of this chapter, or without having first complied with the requirements of the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not less than twenty dollars nor more than one hundred and fifty dollars.

§ 11. EXEMPTIONS LIMITED.] For the payment of all fines, costs and damages assessed against any person or persons, in consequence of the sale of intoxicating liquors, as provided in this chapter, the real estate and personal property of such person or persons, of every kind, shall be liable, except such property as now is exempted by law: *Provided*, Said exemption shall not embrace any wines, liquors or furniture used in carrying on the trade of a retailer of intoxicating liquor, and such fines, costs and damages shall be a lien upon such real estate until paid; and all the furniture, liquors, glasses, bottles and barrels in the custody of any person selling intoxicating liquors, shall be liable to seizure and sale to pay any fine or judgment against such person so selling intoxicating liquors.

§ 12. BOND INCLUDES ALL CONDITIONS.] All the conditions required to be included in the bond mentioned in section three of this chapter shall form and constitute a part of every such bond without being expressed therein, or if only partially set forth or referred to therein; and no such bond shall be void upon the first recovery, but it may be sued and recovered upon from time to time, as herein authorized, until the whole penalty is exhausted.

§ 13. OFFICERS MAKE COMPLAINT.] It is hereby made the duty of the district attorney, sheriff, constables and justices of the peace, knowing of any violations of the provisions of this act, to make complaint thereof to the grand jury of the next term of the district court of the county or judicial subdivision in which the offense may have been committed, or to make complaint to a justice of the peace who shall have power to bind over the offender to appear and answer at the next term of the district court.

§ 14. REPORT OF CLERK TO GRAND JURY.] Every county clerk shall, on the first day of the term of each district court, deliver to the grand jury an accurate list of all persons holding license under the provisions of this act within the county, which list shall show the date and expiration of such license.

§ 15. GRAND JURY INDICT.] It shall be the duty of the grand jury at each and every term of the district court in every county or judicial subdivision to make a strict inquiry and return bills of indictment against every person violating any of the provisions of this chapter.

## CHAPTER 36.

## PEDDLERS' AND AUCTIONEERS' LICENSE.

§ 1. LICENSE REQUIRED.] No auctioneer, peddler, or other person or persons, company or corporation, shall be permitted to sell, vend or retail, either at private sale or public auction, any goods, wares or merchandise, without having first obtained a license for that purpose, as hereinafter provided.

§ 2. COUNTY BOARD GRANTS LICENSE.] The board of county commissioners of the respective counties shall have power to grant such license on the payment into the county treasury, by the applicant for such license, of a sum to be assessed and fixed by said board, not less than ten dollars, nor more than one hundred dollars.

§ 3. AUTHORITY UNDER LICENSE.] Such license shall authorize the person receiving it to vend, sell and retail goods, wares and merchandise, within said county, for the period of one year from the time of granting the same.

§ 4. COUNTY CLERK'S POWERS.] If the board of county commissioners be not in session when the application is made, the county clerk may grant a written permission to the applicant to vend, sell and retail goods, wares and merchandise, until the end of the next session of the board of county commissioners, or, if said board take no action upon the case, for the term provided in the third section of this chapter; and, at the time of granting such license, the clerk may assess the amount to be paid by the applicant, which shall be paid into the county treasury accordingly.

§ 5. CLERKS' PERMITS REVOCABLE BY BOARD.] When permission shall be granted in vacation, as aforesaid, it shall be the duty of the board, at their next regular meeting thereafter, to examine such permit, and, if approved, to proceed forthwith to assess and fix the amount to be paid for such license thereafter, which amount shall be paid as in the case of original applications; but if the board of county commissioners do not approve the same, the license shall be vacated, and no other sum shall be required to be paid than that fixed by the county clerk.

§ 6. PENALTY FOR VIOLATION.] If any person or persons, company or corporation, shall, directly or indirectly, keep an auction store, or sell, vend or retail any goods, wares or merchandise, without being first duly authorized by license or permit, as aforesaid, such person or persons, company or corporation, so offending, shall forfeit and pay any sum not less than ten dollars nor exceeding two hundred dollars.

§ 7. MERCHANTS TAXED NOT INCLUDED.] Nothing in this act shall be so construed as to extend to the sale of goods, wares and merchandise by merchants who pay an annual tax upon the same, assessed according to the revenue laws of this territory, nor to persons who sell commodities manufactured or raised by themselves in this or any adjoining territory.

## CHAPTER 37.

### WEIGHTS.

§ 1. BUSHELS OF ARTICLES FIXED BY WEIGHT.] A bushel of each of the articles enumerated in this section shall consist of the number of pounds avoirdupois, respectively affixed to each, viz:

Barley, forty-eight pounds.  
Beans, sixty pounds.  
Bran, twenty pounds.  
Buckwheat, forty-two pounds.  
Beets, sixty pounds.  
Broom-Corn Seed, thirty pounds.  
Corn, shelled, fifty-six pounds.  
Corn, in the ear, seventy pounds.  
Clover Seed, sixty pounds.  
Coal Stone, eighty pounds.  
Flax Seed, fifty-six pounds.  
Lime, eighty pounds.  
Oats, thirty-two pounds.  
Onions, fifty-two pounds.  
Potatoes, Irish, sixty pounds.  
Potatoes, sweet, forty-six pounds.  
Peas, sixty pounds.  
Rye, fifty-six pounds.  
Salt, eighty pounds.  
Turnips, sixty pounds.  
Timothy Seed, forty-two pounds.  
Wheat, sixty pounds.

§ 2. TON OF HAY, CUBIC MEASURE.] A ton of hay shall consist of two thousand pounds; or, by measurement, three hundred and forty-three cubic feet, after the same shall have been stacked thirty days, or such time as may be agreed upon between the parties.

§ 3. CUBIC FEET IN PERCH.] A perch of mason work or stone is hereby declared to consist of twenty-five feet cubic measure.

## CHAPTER 38.

## HOMESTEAD AND THE CONVEYANCE THEREOF.

§ 1. EXEMPT FROM JUDICIAL SALE OR JUDGMENT.] The homestead of every family resident in this territory, as hereinafter defined, whether such homestead be owned by the husband or wife, so long as it continues to possess the character of a homestead, shall be exempt from judicial sale, from judgment lien, and from all mesne or final process issued from any court.

§ 2. FAMILY DEFINED.] A widow or widower though without children, shall be deemed a family while continuing to occupy the house used as such at the time of the death of the husband or wife.

§ 3. CONVEYANCE OF, LIMITED.] A conveyance or incumbrance by the owner of such homestead, shall be of no validity unless the husband and wife, if the owner is married and both husband and wife are residents of the territory, concur in and sign the same joint instrument.

§ 4. LIABLE FOR ITS TAXES ONLY.] The homestead shall be liable for taxes accruing thereon, and if certified and recorded as hereinafter directed, shall be liable only for such taxes, and shall be subject to mechanics' lien for work, labor or material done or furnished exclusively for the improvement of the same, and the whole or a sufficient portion thereof may be sold to pay the same.

§ 5. LIABLE FOR PURCHASE MONEY.] The homestead may be sold for any debt created for the purchase thereof.

§ 6. MUST EMBRACE RESIDENCE.] The homestead must embrace the house used as a home by the owner thereof, and if he or she has two or more houses thus used at different times and places, such owner may select which he or she will retain as a homestead.

§ 7. EMBRACE ONLY CONTIGUOUS TRACTS.] It may contain one or more lots or tracts of land with the buildings thereon and other appurtenances, subject to the limitations contained in the next section, but must in no case embrace different lots and tracts unless they are contiguous, or unless they are habitually and in good faith used as part of the same homestead.

§ 8. AREA EMBRACED.] If within a town plat it must not exceed one acre in extent, and if not within a town plat it must not embrace in the aggregate more than one hundred and sixty acres.

§ 9. BUILDINGS EMBRACED—DEFINED.] It must not embrace more than one dwelling house or any other buildings except such as are properly appurtenant to the homestead as such, but a shop, store or other building situated thereon and really used or occupied by the owner in the prosecution of his own ordinary business, may be deemed appurtenant to such homestead.

§ 10. SELECTION AND MARKING.] The owner, or the husband or wife may select the homestead and cause it to be marked out, and platted and recorded as provided in the next section. A failure in this respect shall not leave the homestead liable, but the officer having the execution against the property of such a defendant may cause the homestead to be marked off, platted and recorded, and may add the expense thence arising to the amount embraced in his execution.

§ 11. HOW MARKED AND DESCRIBED.] The homestead shall be marked off by fixed and visible monuments, unless the same shall embrace the whole of a subdivision or lot, and in giving the description thereof when marked off as aforesaid, the direction and distance of the starting point from some corner of the dwelling house shall be stated. The description of the homestead, certified and acknowledged by the owner, shall be recorded by the register of deeds of the proper county in a book to be called the "homestead book," which shall be provided with a proper index.

§ 12. CHANGE OF HOMESTEAD—LIMITATIONS.] The owner may from time to time change the limits of the homestead by changing the metes and bounds as well as the record of the description or may change it entirely; but such changes shall not prejudice conveyances or liens made or created previously thereto; and no such change of the entire homestead made without the concurrence of the husband or wife, shall affect his or her rights or those of the children.

§ 13. NEW HOMESTEAD EXEMPT.] The new homestead shall in all cases be exempt to the same extent and in the same manner as the old or former homestead was exempt.

§ 14. DISPUTED HOMESTEAD.] When a disagreement takes place between the owner and any person adversely interested, as to whether any land or buildings are properly a part of the homestead, it shall be competent for the district court, in any proper case, to determine such question, and all questions relating thereto.

§ 15. ORDER OF SUCCESSION TO.] Upon the death of either husband or wife, the survivor may continue to possess and occupy the whole homestead, until it is otherwise disposed of according to law; and, upon the death of both husband and wife, the children may continue to possess and occupy the whole homestead until the youngest child becomes of age.

§ 16. DESCENDS FREE OF DEBT.] Such homestead shall descend according to the law of succession as provided by the civil code, unless otherwise directed or disposed of by will, and shall be held exempt from any antecedent debt of the parent, and, if it descend to the issue of either husband or wife, it shall be held by such issue exempt from debts of such husband or wife, except as in the following section provided.

§ 17. IF NO SURVIVOR, LIABLE FOR DEBT.] And if there be no husband or wife surviving, and no issue, the homestead shall be liable to be sold for the payment of any debts to which it might at that time be subjected if it had never been held as a homestead.

§ 18. LIMITATION OF DEVISE.] Subject to the rights of the surviving husband or wife, as declared by law, the homestead may be devised like other real property of the testator.

§ 19. FAMILY FURTHER DEFINED.] Every family, whether consisting of one or more persons, in actual occupancy of a homestead, as defined in this chapter, shall be deemed and held to be a family within the meaning of this chapter.

## CHAPTER 39.

### COMPENSATION OF PUBLIC OFFICERS.

§ 1. The salaries and fees of the several officers hereinafter named shall be as follows, to-wit:

#### TERRITORIAL AUDITOR.

§ 2. The salary of the territorial auditor shall be three hundred dollars per annum, which shall be payable quarterly; and he shall receive twenty-five dollars annually for office rent, fuel and stationery.

#### TERRITORIAL TREASURER.

§ 3. The salary of the territorial treasurer shall be three hundred dollars per annum, which shall be payable quarterly; and he shall receive twenty-five dollars annually for office rent, fuel and stationery.

#### CLERKS OF THE DISTRICT COURTS.

§ 4. The clerks of the district courts shall be entitled to charge and receive for their fees and services the emoluments prescribed by section 828 of the revised statutes of the United States so far as the same is applicable to the business in the district courts of counties and subdivisions, and for any item not embraced within said section of the United States law, such compensation as may be allowed by the rules of the court.

#### THE DISTRICT ATTORNEY.

§ 5. The salary of each district attorney shall be not to exceed six hundred dollars per annum, which shall be payable quarterly from the territorial treasury; and he shall receive in addition thereto the following fees, to be audited and paid like other claims against the counties:

For each conviction on plea of guilty, five dollars.

For each jury trial in cases of misdemeanors, ten dollars.

For each jury trial in cases of felony, twenty dollars.

For each judgment for costs only, five dollars.

For all fines and forfeitures actually collected by him, ten per cent. upon all sums less than fifty dollars, and three per cent. upon all sums above that amount.

§ 6. In all cases of conviction the fees contemplated in the preceding section shall be taxed against the defendant, and, when collected, paid

into the county treasury: *Provided*, That the section giving a salary shall not apply to the county district attorneys.

## REGISTER OF DEEDS.

§ 7. The register of deeds is entitled to charge and receive the following fees :

For recording deed, mortgage or other instrument, and indexing, for the first four hundred words, seventy-five cents.

For each additional folio, ten cents.

Copy of record, for each ten words, one cent.

Certificate and seal, twenty-five cents.

Making certified abstract of title, for the first deed or transfer, one dollar.

And for each additional deed or transfer, ten cents.

Entering satisfaction of mortgage or lien, twenty-five cents.

For recording each certificate of marriage, twenty-five cents.

For recording marks and brands, each, twenty-five cents.

For filing and indexing chattel mortgage, twenty-five cents.

## COUNTY CLERK.

§ 8. For performing the duties of clerk of the county commissioners, and attending to the business of the county, the county clerk shall receive such salary per annum, to be paid by the county quarterly, as the commissioners of the county shall allow, not exceeding in any year the sum of six hundred dollars.

For each certificate and seal in other cases, twenty-five cents.

## SHERIFF.

§ 9. The sheriff shall be entitled to charge and receive the following fees :

Serving *capias* with commitment or bail bond and return, two dollars.

For each search on search warrant, one dollar.

Arresting under search warrant, each defendant, one dollar.

Serving summons, order of attachment, order of replevin, writ of injunction, *scire facias*, citation, or other mesne process, and return thereof, sixty cents.

Each defendant, besides the first, fifty cents.

Copy of summons, order of attachment, twenty-five cents.

Copy of writ of injunction, *scire facias*, each ten words, one cent.

Serving *subpœna* for witness, each person, twenty-five cents.

Taking and filing replevin bond, or other indemnification, to be furnished and approved by the sheriff, one dollar.

Traveling expenses, for each mile actually and necessarily traveled, ten cents.

Making copy of any process or bond or paper, other than herein provided, for every ten words, one cent.

Levying writ of execution and return thereof, one dollar.

Levying writ of possession, with the aid of the county, three dollars and fifty cents.

Levying writ of possession, without the aid of the county, two dollars.

Summoning grand jury, including mileage, to be paid by the county, eight dollars.

Summoning petit jury, including mileage, to be paid by the county, sixteen dollars.

Summoning special jury, for each person empaneled, twenty-five cents.

Serving notice of motion, or other notice or order of court, fifty cents.

Executing writ of habeas corpus, and return, one dollar and twenty-five cents.

Serving writ of restitution, and return, one dollar and twenty-five cents.

Calling inquest to appraise any goods and chattels which he may be required to have appraised, sixty cents; and to each appraiser, to be taxed as costs, one dollar.

Advertisement of sale in newspaper, in addition to the printing, sixty cents.

Advertising in writing for sale of personal property, one dollar.

Posting notices of sale of real property, one dollar.

Executing writ or order of partition, two dollars.

Making deed for lands sold on execution, or order of sale, two dollars.

Committing prisoner to prison, or discharging therefrom, fifty cents.

Opening court and attending thereon, per day, to be paid by the county, two dollars.

Commission on all money received and disbursed by him on execution or order of sale, order of attachment, decree, or on sale of real or personal property, shall be, for each dollar not exceeding four hundred dollars, three cents.

For every dollar above four hundred dollars, and not exceeding one thousand dollars, two cents.

For every dollar above one thousand dollars, one cent.

In all cases in the district court, when persons in whose favor the execution or order of sale is issued, shall bid in the property sold on execution or decree, the sheriff or master making such sale, shall receive five dollars as his per cent. on such sale, and no more.

For boarding prisoner, per day, not exceeding seventy-five cents, to be determined by the board of county commissioners.

For distributing ballot boxes to the various precincts, two dollars per day and mileage.

For executing death warrant, such fee as the board of county commissioners shall deem reasonable and just, to be paid by the county.

In all cases where personal property shall be taken by the sheriff on execution, or on an order of attachment, and applied in satisfaction of the debt without sale, he shall be allowed the same percentage on the appraised value of the same as in case of sale.

§ 10. The sheriffs of the several counties, for performing the duties required by law to be performed by them in the probate or justices' court, shall receive the same fees as are allowed for similar service in the district court, to be taxed against the proper party or parties by the probate judge or justice.

## CORONER.

§ 11. The coroner shall be entitled to charge and receive the following fees:

For viewing a dead body, one dollar.

Summoning and qualifying an inquest, fifty cents.

Drawing and returning inquisition, for each ten words, one cent.

For physician making post mortem examination of dead body, not to exceed in any case, ten dollars.

To be paid out of any goods, chattels, lands and tenements of the slayer, in case of murder or manslaughter, if he hath any, otherwise by the county, with mileage for distance actually traveled to and from the place of viewing the dead body.

For all other services rendered, the same fees as are allowed the sheriff, and mileage.

## MASTER IN CHANCERY.

§ 12. A master in chancery shall be entitled to charge and receive the following fees:

For copying any paper or instrument of writing, taking testimony, for every ten words, one cent.

Swearing each witness, ten cents.

Making report of facts or conclusions of law, or upon exceptions, for every ten words, one cent.

And such additional fee as the court shall allow, not exceeding in any one cause, the sum of ten dollars.

Certificate and seal, twenty-five cents.

Taking affidavit, twenty-five cents.

For all services pertaining to the sale of real estate the same fees as are allowed by law to the sheriff in like cases.

## FEES IN PROBATE COURT.

§ 13. The judge of the probate court shall be entitled to charge and receive the following fees:

Filing petition for appointment of administrator, executor and guardian, or for the revocation of the same, fifty cents.

Granting letters testamentary, or of administration when not contested, seventy-five cents, and when contested or opposed, one dollar and fifty cents, and for order revoking the same, fifty cents.

Hearing any complaint, or an application for the appointment of a guardian, fifty cents.

Appointing a guardian, fifty cents; and when one guardian shall be appointed for more than one person at the same time, twenty-five cents for each person after the first, for whom such guardian shall be appointed.

Judgment or order for probate of will, when not contested, seventy-five cents; when contested, one dollar and fifty cents.

For reducing to writing the testimony of witness, in cases required by law, ten cents for every one hundred words.

Certificate of probate attached to will, twenty-five cents.

Recording will and certificate of probate, ten cents for every one hundred words.

For issuing warrant of arrest or to compel attendance, fifty cents.

For every commitment to jail of any person, fifty cents.

Recording letters testamentary and of administration, and bonds, in each case, one dollar.

Judgment or order for settling an estate, fifty cents.

Order for distribution, fifty cents.

Order of sale of personal or real estate, fifty cents.

Examining and allowing an inventory, fifteen cents for each folio.

Administering an oath to an executor, administrator or other person, in cases provided for by law, ten cents.

Examining and passing upon accounts of executors, administrators, guardians and other persons, for the first folio, twenty-five cents, and for each additional folio, ten cents.

For each citation, summons, or other process, twenty-five cents.

Issuing a commission to examine and pass upon claims against an estate, or to partition property, fifty cents.

Appointment of appraisers of the property of an estate, fifty cents.

Approving and filing a bond given on an appeal, twenty-five cents.

Approving bonds of administrators, executors or others, twenty-five cents.

Order for an allowance to a family, widow or minor children, twenty-five cents.

Order for sale of personal estate, or for publication of any notice, or any other ordinary order in proceedings before him, where no other provision is expressly made, twenty-five cents.

Making and entering order confirming sale, fifty cents.

For issuing order to show cause, twenty-five cents.

Filing petition for sale of property and hearing same, fifty cents.

Each order for sale of real estate to pay debts of an estate, fifty cents.

Extending time for settling on an estate, on examining and allowing claims against an estate, twenty-five cents.

Granting reference of accounts of executors or administrators, or allowing report thereon, fifty cents.

For a bond of executors, administrators or guardians, on an appeal, twenty-five cents.

Disallowing application for letters of administration or probate of a will, to be paid by the party applying, fifty cents.

Proportioning an insolvent estate among the creditors, seventy-five cents.

Entering the account of an executor, administrator or guardian, ten cents for each folio.

Entering each oath of an executor or administrator, ten cents.

Searching the records or files in his office, for each year, twenty-five cents.

Every judgment, decree or order in nature of judgment, not otherwise provided, fifty cents.

Recording any matter required to be recorded, not otherwise herein provided for, ten cents for each folio; and when any will or other matter is recorded in any other than the English language, for each folio, twenty cents.

For a translation of any will from any other language, for each folio, twenty-five cents.

Copies and exemplifications of the probate of any will, of letters testamentary, or of administration, or of any other proceeding or order had or made before him, or any other papers filed or recorded in his office, transmitted on appeal, or furnished on the request of any person, for each folio, ten cents.

§ 14. The amount of fees charged in any case not contested shall in no case exceed fifteen dollars, unless the same be audited and certified to be just by the judge of the district court.

#### COUNTY TREASURER.

§ 15. Each county treasurer shall receive for his services the following fees:

On all money collected by him for each fiscal year, four per cent.

On all sums collected per centage shall be allowed but once, and in computing the amount collected for the purpose of charging per centage, all sums, from whatever source derived, shall be included together, except the school fund.

For going to the office of the territorial treasurer to settle with that officer and returning therefrom, a traveling fee of ten cents per mile, to be paid out of the territorial treasury.

For advertising and selling lands for delinquent tax, an additional fee of five per cent., to be paid only so far as the lands are actually sold, and out of the fund received therefor, and to be collected in each case when the lands are sold, and from the purchaser; but for all other cases and services the treasurer shall be paid in the same *pro rata* from the respective funds collected by him, whether the same be in money, territorial or county warrants.

On school moneys by him collected he shall receive a commission of but two per cent.

For each and every levy he or his deputy shall make on personal property for the satisfaction of a tax or taxes, he shall receive a fee of one dollar and five cents for every mile actually traveled by him, to be collected out of the property levied on by him, and for the sale of personal prop-

erty so levied on by him, he shall receive a fee of one dollar, to be collected out of the property so levied on by him.

§ 16. In all cases, where persons reside outside of the territory, apply to the treasurer by letter to pay taxes, the treasurer is authorized to charge a fee of twenty-five cents for each tax receipt by him sent to such person.

#### NOTARIES PUBLIC.

§ 17. Notaries public are entitled to charge and receive the following fees:

- For each protest, one dollar and fifty cents.
- For recording the same, fifty cents.
- For taking affidavit and seal, twenty-five cents.
- For administering oath or affirmation, ten cents.
- For taking deposition, each ten words, one and a half cents.
- For each certificate and seal, twenty-five cents.
- For taking proof of acknowledgment, twenty-five cents.

#### JUSTICES OF THE PEACE.

§ 18. Justices of the peace shall be entitled to charge and receive the following fees:

- Docketing each cause, twenty-five cents.
- Taking affidavit, twenty-five cents.
- Filing petition, bill of particulars, or other paper necessary in a cause, ten cents.
- Issuing summons, *capias*, *subpœna*, order of arrest, or venire for jury, fifty cents.
- Issuing execution, order of sale, order of attachment, order of replevin, and entering return therein, fifty cents.
- Issuing writ of restitution, and entering return therein, one dollar.
- Administering oath or affirmation to witness, ten cents.
- Entering judgment in any cause, fifty cents.
- Taking acknowledgment of deed or other instrument, twenty-five cents.
- Swearing jury, twenty-five cents.
- Copy of appeal, *certiorari*, or copy of pleadings or other papers for any purpose, for each ten words, one cent.
- Taking depositions, for each ten words, one cent.
- Certificate, twenty-five cents.
- Issuing warrant or *mittimus*, fifty cents.
- Taking information or complaint, fifty cents.
- Discharge to jailor, twenty-five cents.
- Dismissal, discontinuance or satisfaction, twenty-five cents.
- Written notice to party or parties, ten cents.
- Filing notice and opening judgment for rehearing, fifty cents.
- Each adjournment, fifty cents.
- Performing marriage ceremony, three dollars.
- Each day's attendance upon trial of a cause, after the first day, two dollars.

Taking and approving bail bond, twenty-five cents.  
Entering voluntary appearance of defendant, twenty-five cents.  
Issuing attachment, fifty cents.  
Entering motion or rule, ten cents.  
Rule of reference to arbitrators, fifty cents.  
Entering award of arbitrators, twenty-five cents.  
Commission on money collected on judgment without execution shall be one per cent. on the amount.

## CONSTABLES.

§ 19. Constables shall be allowed the same fees as are allowed to sheriffs for like services.

## JURORS.

§ 20. For each day's attendance at any district court, as grand, petit or special juror, to be paid by the county, two dollars.

Traveling expenses for each mile actually traveled, the mileage to be circular and paid by the county, five cents.

For juror in justice's court, each case, one dollar.

## COUNTY SURVEYORS.

§ 21. Three dollars per day when actually employed and mileage.

For each lot laid out and platted in any city or town, twenty-five cents.

For each copy of plat and certificate, fifty cents.

Recording each survey, twenty-five cents.

For each mile actually and necessarily traveled in going to work, ten cents each way.

For establishing each corner, twenty-five cents.

For ascertaining the location of a city or town lot in an old survey, and measuring and marking the same, two dollars.

For surveying county roads per day, three dollars.

Expenses of necessary assistance shall, in addition, be paid by the party or parties requiring the work to be done.

## PRINTERS.

§ 22. For printing and publishing legal advertisements in newspapers, as follows:

Each square of one hundred words for the first insertion, seventy-five cents.

Each subsequent insertion, for each square of one hundred words, fifty cents.

In legal advertisements, each one hundred words, or fractional part thereof over twenty-five words, shall be deemed a square.

For publishing descriptions of delinquent lands, as provided in the revenue law.

## ASSESSOR.

§ 23. Each assessor, or his deputy, shall receive for his services, for each and every day actually engaged, the sum of three dollars.

## COUNTY COMMISSIONERS.

§ 24. County commissioners shall each be allowed, for the time they shall be necessarily employed in the duties of their office, the sum of three dollars per day, and five cents per mile for the distance actually traveled in attending the meetings of the board, and when engaged in other official duties, to be paid out of the general county fund.

## WITNESSES.

§ 25. For each day's attendance before the district court, or before any other court, board or tribunal, in all civil and criminal cases, one dollar; and for each mile actually traveled one way, ten cents: *Provided*, That in all criminal cases, witness fees shall be paid out of the treasury of the proper county.

## TAXATION OF JURY FEES.

§ 26. There shall be paid by the party against whom a verdict is rendered in the district court, a jury fee of five dollars, to be taxed in the bill of costs; and, when collected, to be paid into the county treasury; and for each trial by the court, a fee of one dollar, to be taxed, collected and paid in a like manner, for the use of the county.

§ 27. In each criminal case tried by a jury, upon a conviction of the defendant or defendants, there shall be taxed, in the bill of costs, a fee of six dollars as a jury fee, and judgment therefor shall be rendered against such defendant or defendants, which sum, when collected, shall be paid into the county treasury for the use of the county.

## FEES IN MATTERS OF ESTRAYS.

§ 28. The following fees are allowed in cases of estrays:

To justices of the peace for issuing any warrant of appraisement, fifty cents.

For filing and entering in docket the sworn report of appraisers, fifty cents.

Taking and entering the affidavit of the taking up of any estray, fifty cents.

For posting notices of estray, and certifying copy of the sworn reports of the appraisers to the register of deeds, fifty cents.

Posting notices and selling an estray, two dollars.

Advertising estray, if published in a newspaper, three dollars.

To each appraiser, twenty-five cents.

To register of deeds, for entering certified copy of sworn report of appraisers, twenty-five cents, and for each inspection of the estray registry, ten cents.

## MISCELLANEOUS PROVISIONS.

§ 29. Interpreters or translators may be allowed such compensation for their services as the court shall certify to be reasonable and just, to be taxed and collected as other costs, but the same shall not exceed two dollars per day.

§ 30. Officers authorized by law to take and certify acknowledgments of deeds and other instruments, are entitled to charge and receive twenty-five cents each therefor, and for administering oaths and certifying the same, ten cents.

§ 31. In all actions, motions and proceedings in the supreme, district, probate or justices courts, the costs of the parties shall be taxed and entered on record separately.

§ 32. The clerk of the supreme court and of each district court, the register in chancery, probate judge, sheriff, justice of the peace, constable, or register of deeds, may in all cases require the party for whom any service is to be rendered, to pay the fees in advance of the rendition of such service, or give security for the same, to be approved by the officer.

§ 38. All officers whose fees are by this chapter determined, are hereby required to make fair tables of their respective fees, and keep the same in their respective offices in some conspicuous place, for the inspection of all persons who shall have business in said office; and if any such officer shall neglect to keep a table of fees of his office, as aforesaid, such officer shall, for such neglect so to keep a table of fees of his office, forfeit and pay the sum of five dollars, to be recovered by action at law, before any justice of the peace, for the use of the county in which the offense shall have been committed.

§ 34. It shall be the duty of the district court, at each term of court, to appoint a competent number of bailiffs to wait on the grand jury and court during the term, who shall be allowed for their services two dollars per day, to be paid by the county.

§ 35. Every officer, whose salary is in the nature of a per diem, shall, before drawing any money on account of such salary, subscribe an oath or affirmation in form following :

I, A. B, do solemnly swear, or affirm, that I have been . . . . . days necessarily and diligently engaged in the duties of my office as (insert title of office.)

[Officer's name.]

Any disbursing officer of this territory who shall pay any portion of the salary of any officer aforesaid before such oath or affirmation is taken and subscribed, shall forfeit to this territory the sum of fifty dollars, which forfeiture may be sued for by any tax-payer.

Approved February 17, 1877.

## FEES OF CHAPLAINS.

CHAPTERXLIV, Laws of 1874 5. An Act to Establish the Fees of Chaplains.

§ 1. *Be it enacted by the Legislative Assembly of the Territory of Dakota,* That the fees for chaplains elected by the council and house of representatives, shall be two dollars (§2.00) per day for services rendered during the session of the legislative assembly. Said fees shall be paid out of any moneys in the territorial treasury not otherwise appropriated.

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

Approved, December 30, 1874.

## CHAPTER 40.

### PUBLIC EDUCATION.

§ 1. GOVERNOR APPOINTS SUPERINTENDENT.] There shall at each biennial session of the legislative assembly be nominated by the governor, and by and with the consent of the council, be appointed a superintendent of public instruction, who shall hold his office for two years, or until his successor is appointed and qualified: *Provided*, That when any vacancy occurs in said office by death, resignation, or otherwise, the governor shall appoint some suitable person to perform the duties of the office for the remainder of the unexpired term.

§ 2. OATH AND BOND.] The superintendent of public instruction shall, before entering upon the discharge of the duties of his office, take and subscribe to an oath to support the constitution of the United States and the organic act of this territory, and to faithfully discharge the duties of his office, which oath shall be filed with the secretary of the territory, and shall execute a bond in the penal sum of one thousand dollars, with two sureties, to be approved by the governor, conditioned on the faithful performance of his duties and integrity in his accounts; which bond shall be filed with the secretary of the territory.

§ 3. VARIOUS DUTIES OF SUPERINTENDENT.] It shall be the duty of the superintendent of public instruction to keep a record of his official acts, and to exert himself constantly and faithfully to promote the interests of education in the territory. And to this end he shall visit schools, confer with county superintendents, and hold institutes in company with them, and furnish them blank forms for collecting statistics of the various schools in the territory. He shall prepare and present to the governor before the fifteenth day of December in each year, a report of his official acts for the preceding year, with a full statement of the condition of the common schools in the territory, and the expenditure of the public school money, and shall make such suggestions for the improvement and support of common schools as he shall deem proper.

§ 4. CERTIFICATES TO TEACHERS.] The superintendent of public instruction shall also have power to grant certificates of qualification to teachers of proper learning and ability, to teach in any public school in the territory, which certificate shall be a professional certificate; and to regulate the grade of county certificates, which shall be first, second, and third grade certificates, and the superintendent of public instruction may, at his dis-

cretion, appoint and authorize a deputy to perform the duties of the office.

§ 5. SUPERINTENDENT'S COMPENSATION.] The compensation of the superintendent of public instruction for his services, shall be the sum of six hundred dollars per annum, and necessary mileage, not to exceed two hundred dollars per annum, and the expense of procuring blanks, postage, stationery, and such books as are necessary for the use of his office, and publication of his annual report; all of which allowance shall be paid by the territorial treasurer on the certificate of the territorial auditor, and said auditor shall grant such certificate on the account of said superintendent of public instruction, sworn to by him.

§ 6. SCHOOL BOOKS, LIBRARIES, REPORTS.] The superintendent of public instruction shall discourage the use of sectarian books and sectarian instruction in the schools; to advise in the selection of books for the school district libraries, and to open such correspondence abroad as may enable him to obtain, so far as practicable, information relative to the system of common schools and their improvements in other states and countries. He shall examine and determine all appeals duly made to him from the decision of any county superintendent in forming or altering any school district or concerning any other matter under the school law of this territory, and his decision shall be final. He shall prepare for the use of common school officers, suitable forms for making reports and conducting all necessary proceedings, and he shall cause the laws relating to common schools with the rules, regulations and forms aforesaid, and such instructions as he shall deem necessary to be printed, together with a suitable index, in pamphlet form, at the expense of the territory. He shall prepare a sufficient number of his annual report to be distributed as follows: One copy to each member of the legislature; one copy to each county superintendent of schools; one copy to each district officer, and to such other of the county and territorial officers as may be by him deemed proper, not to exceed fifteen hundred copies in one year. The superintendent of public instruction with the county superintendent and district school officers, may decide what text books shall be used in the schools: *Provided, however,* That after the adoption of a series of text books by the officers of any school district, and county superintendent, with the approval of the superintendent of public instruction, the same cannot be changed for the space of three years.

§ 7. TERRITORIAL INSTITUTE.] The territorial superintendent of public instruction, with the several county superintendents, shall hold annually, at some convenient place, a territorial teachers institute for the instruction and advancement of teachers; said institute not to continue less than four days and not to exceed ten days, which institute shall be free to all teachers and those preparing to teach in this territory.

§ 8. COUNTY SUPERINTENDENT.] The several counties of this territory shall at the same time and in the same manner as other county officers are elected, elect a suitable person to be superintendent of public schools within such county, who shall hold his office for two years from the first of

January next succeeding his election, unless he shall be elected to fill a vacancy, in which case he may immediately qualify into office, and shall hold his office until his successor is elected and qualified, and who shall receive three dollars for each day spent in the discharge of his official duties, and he shall be allowed a reasonable amount for necessary stationery, and every superintendent of schools shall make out in detail his account for official services, stating date and time spent, as well as the kind of service rendered, and make oath or affirmation to the correctness of the same before any officers authorized by law to administer an oath in the county in which he resides, which oath or affirmation shall be certified by said officer before such superintendent's account shall be presented to the county commissioners for allowance, who shall audit and allow the account, and the same shall be paid out of the county fund the same as other county officers, upon the order of the county commissioners: *Provided, however,* That no order shall be drawn to any superintendent until he shall have filed with the county clerk, the receipt of the superintendent of public instruction for the statistical returns of the preceding school year, in pursuance of the requirements of section twenty of this act.

§ 9. COUNTY SUPERINTENDENT—HOW QUALIFY.] The county superintendent of public schools shall have charge of the common school interests of the county. He shall, before he enters upon the discharge of the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United States, and the act organizing this territory, and faithfully to discharge the duties of his office, which oath or affirmation shall be filed in the county clerk's office. He shall also execute a bond with approved security, payable to the board of county commissioners for the use of common schools in said county, in the penal sum of five hundred dollars; said bond must be approved by the county commissioners, and filed in the county clerk's office.

§ 10. DISTRICTING THE COUNTY.] That it shall be the duty of the county superintendent of schools, in addition to other duties required of him, to divide his county into school districts, subdivide and rearrange the boundaries of the same, when petitioned by a majority of the citizens residing in the district or districts to be affected by said change, and to furnish the county commissioners of such county with a written description of the boundaries of each district, which description must be filed in the register of deeds office, before such district shall be entitled to proceed with its organization by the election of school district officers, and it shall be his duty to keep on file in his office all petitions and remonstrances, which shall show the date of reception and the action had thereon; and it shall be his further duty, on the division of or change of district boundaries, to notify the clerk of the districts interested of the change made. Whenever it shall be deemed necessary to form a district from parts of two or more counties, it shall be the duty of the county superintendent of each county in which any part of the proposed joint district shall be situated to unite in laying out such joint district; and each county superintendent assisting, shall file

a description of said joint district in the county clerk's office of his county.

§ 11. TREASURER'S MONEY STATEMENT.] It shall be the duty of the county treasurer, on the first Monday in January and July in each year, to furnish the county superintendent of public schools with a statement of the amount of money in the county treasury, belonging to the school fund, and he shall pay the same, upon the order of said superintendent, to the district treasurers.

§ 12. APPORTIONMENT OF MONEY—LIMITATION.] It shall be the duty of the county superintendent of public schools on the second Monday of January and July in each year, or as soon thereafter as he shall receive the statement of the county treasurer provided for in section 11, to apportion such amount to the several districts or parts of districts within the county, in proportion to the number of children residing in each, over the age of five and under twenty-one years of age, as the same shall appear from the last annual reports of the clerks of the respective districts, and shall immediately notify, by mail or otherwise, the district treasurer of each district, the amount of money due to his district, and he shall draw his order on the county treasurer in favor of the several district treasurers for the amount apportioned for each district: *Provided*, No district shall be entitled to receive any portion of the common school fund which shall not have held a school meeting at the time appointed by law for holding annual school meetings in this territory, or within thirty days thereafter, and made out and forwarded to the county superintendent of public instruction, their annual report within forty days of the time fixed by law for holding annual school meetings in this territory, and which shall not have had three months school during the previous year, except new districts, which shall receive one year's apportionment without complying with this provision.

§ 13. SCHOOL VISITATION—ADVICE—ACCOUNTS.] It shall be the duty of the superintendent to visit such common schools within their respective counties as shall be organized, according to law, at least once in each year, or oftener if they shall deem it necessary. At such visitation, the superintendent shall examine into the state and condition of such schools as respects the progress in learning and the order and government of schools; and they may give advice to the teacher of such schools as to the government thereof, and the course of study to be pursued therein, and shall adopt all requisite measures for the inspection, examination and regulation of the schools, and for the improvement of the schools in learning. Every superintendent of public schools shall also make out his account for official services in the manner hereinbefore required, and deliver a copy of the same to the county commissioners of the county in which such superintendent was elected or appointed on or before the first day of the annual session in January in each year, and the same shall be filed in the office of the register of deeds.

§ 14. DISTRICT REPORTS—APPEALS.] He shall see that the several reports of the clerks of the several school districts are made correctly and in due time, and shall hear and determine all appeals from the decision of district boards.

§ 15. PUBLIC EXAMINATION OF TEACHERS—CERTIFICATES—FEE.] He shall hold public examination of all persons offering themselves as teachers of common schools at the county seat of his county, on the last Tuesday of April and October of each year, notice of which shall be given publicly as possible, at which time he shall grant certificates for not less than three months, or more than one year to such persons as he shall find qualified as to moral character, learning and ability, and any person receiving such certificate shall be deemed a qualified teacher within the meaning of this act. Persons applying to the county superintendent for a certificate at any other time than at the public examination, shall pay to the said superintendent the sum of one dollar for his services.

§ 16. NEW DISTRICT—MEETING—JOINT DISTRICT.] Whenever a school district shall be formed in any county, the county superintendent of schools of such county shall, within fifteen days thereafter, prepare a notice of the formation of such district, describing its boundaries and stating the number thereof, and appointing a time and place for the district meeting. He shall cause the notice thus prepared to be posted in at least five public places in the district, at least ten days before the time appointed for such meeting; and when a joint district is formed from portions of two or more counties, the county superintendents of each county from which any portion of the new district is taken, shall unite in giving the customary notices, and the new district shall be numbered by the superintendent of the county having the highest number of districts. Any citizen aggrieved by the action of the county superintendent of schools, in the formation of the school district in which he resides, shall have the right to appeal from his decision to the board of county commissioners, if such appeal be taken within sixty days from the time of the formation or change of said school district.

§ 17. RECORDS TO BE DELIVERED.] The county superintendent of public schools shall perform all other duties of said office that now are or may hereafter be prescribed by law; and he shall deliver to his successor, within ten days after the expiration of his term of office, all the books appertaining to his office.

§ 18. VACANCY FILLED.] If a vacancy occur in the office of county superintendent of public schools by death, resignation or otherwise, notice thereof shall be given by the register of deeds to the county commissioners, who shall, as soon as practicable, appoint some suitable person to fill the vacancy, and the person receiving such appointment, shall, before entering upon the discharge of the duties of his office, file his oath or affirmation in the county clerk's office, as hereinbefore provided, and shall discharge all the duties of the office of county superintendent of public schools until a successor is elected and qualified. He shall give a like bond to that required by this act to be given by the county superintendent of schools.

§ 19. REPORT TO TERRITORIAL SUPERINTENDENT.] The county superintendent shall make full and complete annual returns to the superintendent of public instruction, between the first and tenth days of November of each

**year**, of the number of children between the ages of five and twenty-one in the school district within their respective counties; also the number of qualified teachers employed; the length of time each district school has been taught during the year, the kind of text books used, and the amounts expended; the amounts raised in each county and district by taxation or otherwise for educational interests, and any other items that may be of service to the superintendent of public instruction in preparing his annual report. The district clerk shall report to the county superintendent the name of the school district officers, with their postoffice address.

## SCHOOL DISTRICT MEETINGS.

§ 20. POWERS OF MEETING.] The inhabitants qualified to vote at a school district meeting, lawfully assembled, shall have power :

1. To appoint a chairman to preside at said meeting in the absence of the director.

2. To adjourn from time to time: *Provided however*, That no annual meeting shall be adjourned for more than thirty days.

3. To choose a director, clerk and treasurer, who shall possess the qualifications of voters as prescribed in the next section of this act at the first and each annual meeting thereafter.

4. To designate by vote a site for a district school house.

5. To vote a tax annually not exceeding two per cent. on the taxable property in the district, as the meeting shall deem sufficient to purchase or lease a site, and to build, hire or purchase a school house, and to keep the same in repair.

6. To vote a district tax annually, not exceeding two per cent. on the taxable property of the district for pay of teachers' wages in the district, and necessary fuel and other school expenses.

7. To authorize and direct the sale of any school house site or property belonging to the district when the same shall no longer be needful for the district.

8. To vote such a tax as may be necessary to furnish the school house with blackboards, outline maps, stoves, furniture, and apparatus necessary for illustrating the principles of science, or to discharge any debts or liabilities of the district, lawfully incurred: *Provided*, That said tax shall not exceed one per cent. in any year, and may be applied to any other purpose by a vote of the district at any regularly called meeting.

9. To give such direction and make such provision as may be deemed necessary in relation to the prosecution or defense of any suit or proceeding in which the district may be a party.

10. To alter or repeal their proceedings from time to time, as occasion may require, and to do any other business contemplated in this act.

11. To vote a tax not exceeding twenty-five dollars (\$25.00) in any one year, to procure a district library, consisting of such books as they may direct any person to procure.

§ 21. WHAT PERSONS MAY VOTE.] The following persons shall be entitled to vote at any district meeting: All persons possessing the qualifications

of electors as defined by the laws of the territory, and who shall be actual residents of the district at the time of offering to vote at such election.

§ 22. PROCEEDINGS IF CHALLENGED.] If any person offering to vote at a school district meeting be challenged as unqualified, by any legal voter, the chairman presiding shall declare to the person challenged the qualifications of a voter, and if such challenge be not withdrawn, the chairman, who is hereby authorized, shall tender to the person offering to vote the following oath or affirmation:

You do solemnly swear, or affirm, that you are an actual resident of this district, and that you are qualified by law to vote at this meeting.

Any person taking such oath or affirmation, shall be entitled to vote on all questions voted upon at such meeting.

#### ORGANIZATION OF DISTRICTS.

§ 23. WHEN DEEMED ORGANIZED.] Every school district shall be deemed duly organized when the officers constituting the district board shall be elected and qualified. Every person duly elected to the office of director, clerk or treasurer of any school district, who shall refuse or neglect, without sufficient cause, to accept of such office and serve therein, or who having entered upon the duties of his office, shall neglect or refuse to perform any duty required of him by the provisions of this act, shall forfeit the sum of ten dollars to the school district fund.

§ 24. WHAT OFFICERS ELECTED—TERMS.] The officers of each school district shall be director, clerk and treasurer, who shall be qualified voters of the district, one of whom shall be elected at each annual school meeting, to serve for three years, and until his successor is elected and qualified: *Provided*, That at the next annual school meeting after the passage of this act, and at meetings called to organize new districts, the director shall be elected to serve for one year, the clerk for two years and the treasurer for three years.

§ 25. SCHOOL DISTRICT BODY CORPORATE.] Every school district organized in pursuance of this act shall be a body corporate, and shall possess the usual powers of corporation for public purposes, by the name and style of school district No. . . . [such number as may be designated by the county superintendent] . . . . . county, [the name of the county in which the district is situated] territory of Dakota, and in that name may sue and be sued, and capable of contracting and being contracted with, and hold such real and personal estate as it may come in possession of by will or otherwise, or is authorized to be purchased by the provisions of this act.

§ 26. TIME FOR ANNUAL SCHOOL MEETING—SPECIAL MEETING.] An annual school meeting for each district shall be held at the school house or at the place usually occupied for school purposes, or at some central place in the district, on the first Tuesday in April, at such hour as the district board may direct. Annual school meetings shall be called by the district clerk ten days previous to the time of such meeting, who shall post three notices of the time and place of holding such meeting. But if the district clerk shall neglect or refuse to notify the annual school meeting, a special

meeting may be called as provided in section twenty-seven, at which time it shall be lawful to elect school district officers and transact any other business usually done at the annual school meetings. Special school meetings may be held at any time by the order of a majority of the district board, for which ten days' notice shall be given by the district clerk, said notice stating the business to be acted upon by said meeting. Special school meetings may also be held at the call of any five legal voters of the district, who shall subscribe and post three notices in public places in the district ten days previous to the call of the meeting, said notices to specify the business to be acted upon by said school meeting.

§ 27. IF ANNUAL MEETING PASSED.] Whenever the time for holding the annual meeting in any district shall pass without such meeting being held, the clerk, or in his absence, any member of the district board, within twenty days after the time for holding said annual meeting shall have passed, may give notice of a special meeting by putting up written notices thereof in three public places within the district, at least ten days previous to the time of meeting. But if said meeting shall not be notified within thirty days aforesaid, the county superintendent may give notice of such meeting in the manner provided for forming new districts, and the officers chosen at such special meeting shall hold their respective offices until the next annual meeting, and until their successors are elected and qualified.

§ 28. POWERS OF VOTERS AT DISTRICT MEETING.] The qualified voters at each annual meeting, or at any special meeting duly called, may determine the length of time a school shall be taught in their district for the ensuing year, and whether the school money to which the district may be entitled shall be applied to the support of the summer or winter term of school, or a certain portion to each; but if such matters shall not be determined at the annual or special meeting, it shall be the duty of the district board to determine the same.

§ 29. DUTIES OF THE DIRECTOR.] The director of each district shall preside at the district meetings, and shall sign orders drawn by the clerk, authorized by the district meeting, or by the district board, upon the treasurer of the district for moneys collected or received by him to be disbursed therein. He shall appear for and in behalf of the district in all suits brought by or against the district, unless other direction shall be given by the voters of such district at a district meeting.

#### DISTRICT CLERK.

§ 30. DUTIES OF THE CLERK.] The clerk of each district shall record the proceedings of his district in a book provided by the district for that purpose, and enter therein copies of all the reports made by him to the county superintendent, and he shall keep and preserve all records, books and papers belonging to his office, and deliver the same to his successor in office.

§ 31. WHEN CLERK APPOINTED PRO TEM.] The said clerk shall be clerk of all district meetings; but if said clerk shall not be present, or being pres-

ent, shall refuse to act at such district meeting, the voters present may appoint a clerk for such meeting, who shall certify the proceedings thereof, and the same shall be recorded by the clerk of the district.

§ 32. CLERK TO POST NOTICES OF MEETINGS.] It shall be the duty of the clerk to give at least ten days notice previous to any annual or special district meeting by posting up notices thereof at three or more public places in the district, one of which notices shall be affixed to the outer door of the school house, if there be one in the district; and said clerk shall give the like notice of every adjourned meeting, when such meeting shall have adjourned for a longer period than one month. Every notice for a special district meeting shall specify the object for which such meeting is called.

§ 33. CLERK'S ORDERS ON TREASURER.] The clerk of the district shall draw orders on the treasurer of the district for moneys in the hands of such treasurer, which have been appropriated to or raised by the district to be applied to the payment of teacher's wages, and apply such money to the payment of teacher's wages, as shall have been employed by the board, and the clerk shall draw orders on the said treasurer for moneys in the hands of such treasurer to be disbursed for any other purpose ordered by a district meeting, or by a district board agreeable to the provisions of this act.

§ 34. CLERK TO NOTIFY COUNTY CLERK OF TAX.] It shall be the duty of the district clerk on or before the first day of May in each year, to notify the county clerk of the amount of tax, if any voted at the last annual meeting, and of any tax levied by the district board to pay judgment, of which notice has not been previously given, which notice shall be substantially in the following form:

District clerk's office, school district No. .... of ..... county, Dakota Territory.  
 ..... 187..

To the county clerk of ..... county, Dakota Territory:

I hereby notify you that at a district meeting of district No. .... held on the ..... day of ..... 187.. at ..... the district voted the following tax:

For school house fund.....	_____mills.
For teacher's fund.....	_____mills.
For contingent fund.....	_____mills.
	_____
Total.....	_____mills.

On the dollar of valuation of real and personal property for school purposes for the coming year, and you are hereby ordered to enter such tax on the county tax list for collection on the property in this district.

§ 35. REPORT OF DISTRICT CLERK—CONTENTS ] The clerk of each district shall, on or before the first day of April in each year, make out and transmit a report in writing to the county superintendent of public schools for each county in which part of his district may lie, showing,

1. The number of children, male and female, designating each separately, residing in the district or parts of districts on the last day of March previous to the date of such report, over the age of five and under twenty-one years.
2. The number and sex of children attending school during the year, and branches studied.

3. The length of time a school has been taught in the district by a qualified teacher; the name of the teacher; the length of time, and the wages paid.

4. The amount of money raised by the district, and the purpose for which it was levied, also the amount received from the apportionment of county fund, and the manner in which the same has been applied.

5. The amount of taxes levied, and now in the hands of the county treasurer for collection; also the amount of outstanding or unpaid orders on each fund, if any.

6. The kind of text books used in the school, and such other facts and statistics in regard to the district schools as the county superintendent may require.

7. The names of school district officers, and the time their term of office expires.

§ 36. CLERK TO KEEP REPORTS.] It shall be his duty to keep a correct copy of all reports made, and turn them over to his successor; also of all orders drawn on the treasurer, and record the treasurer's reports in his records of proceedings.

#### DISTRICT TREASURER.

§ 37. BOND OF TREASURER.] The treasurer shall execute to the district a bond in double the amount of money, as near as can be ascertained, to come into his hands as treasurer of the district, in any one year, with sufficient securities, to be approved by the director and clerk, (who may at any time require new or additional bond, and shall require new bonds whenever the amount of money to come into his hands shall be equal to the amount of bond, or upon the failure, death or removal from the county of any bondsman, or other sufficient reason) conditioned upon the faithful discharge of the duties of said office. Such bond shall be filed with the district clerk, and in case of the breach of any condition thereof the director shall cause a suit to be commenced thereon in the name of the district, and the money collected shall be applied by such director to the use of the district as the same should have been applied by the treasurer, and if such director shall neglect or refuse to prosecute, then any householder of the district may cause such prosecution to be instituted; and the necessary expenses thereof in any case arising under this section, unless otherwise ordered by the court, shall be paid out of the contingent fund.

§ 38. BREACH OF BOND.] If the treasurer shall fail to give bonds as required in this act, or from sickness or from any other cause shall be unable to attend to his duties, said office shall be deemed vacant.

§ 39. COUNTY TREASURER TO PAY OVER SCHOOL FUND.] The treasurer of each district shall apply for, and the county treasurer shall pay over to the district treasurers all of the school moneys collected for his district upon the order of the director and clerk of the district, on hand the first Monday in October, January, April and July of each year; and of the county school fund upon the order of the county superintendent; and the district treasurer shall pay over, on the order of the clerk, signed by the director

of such district, out of the moneys in his hands belonging to the funds drawn upon.

§ 40. WHEN DISTRICT TREASURER REFUSES TO PAY.] If any district treasurer shall refuse or neglect to pay over any money in the hands of such treasurer belonging to the district, it shall be the duty of his successor in office to prosecute without delay the official bond of such treasurer for the recovery of such money.

§ 41. IN CASE OF LOSS.] If by neglect of any treasurer, any school money shall be lost to any school district which has been received from the county treasurer, said treasurer shall forfeit to such district the full amount of money so lost.

§ 42. STATEMENT OF DISTRICT TREASURER.] The treasurer shall present to the district at each annual meeting, a report in writing containing a statement of all moneys received by him from the county treasurer during the year, from assessments in the district and apportionment, and the disbursements made, and exhibit the vouchers therefor, which report shall be recorded by the clerk; and if it shall appear at the expiration of his term of office that any balance of money is in his hands at the time of making such report he shall immediately pay such balance to his successor.

#### DISTRICT BOARD.

§ 43. DISTRICT BOARD BUY OR SELL SCHOOL HOUSE—OTHER DUTIES.] The district board shall purchase or lease such site for a school house as shall have been designated by voters at a district meeting in the corporate name thereof, and shall build, hire or purchase such school house as the voters of the district in a district meeting shall have agreed upon, out of the funds provided for that purpose, and make sale of any school house, site or other property of the district, and, if necessary, execute a conveyance of the same in the name of their office when lawfully directed by the voters of such district at any regular or special meeting, and shall carry into effect all lawful orders of the district.

§ 44. HAVE CARE OF SCHOOL PROPERTY—APPOINT LIBRARIAN.] The district board shall have the care and keeping of the school house and other property belonging to the district. They shall have power to make such rules and regulations relating to the district library as they may deem proper, and to appoint some suitable person as librarian, and to take charge of the school apparatus belonging to the district.

§ 45. SCHOLARS FROM OTHER DISTRICTS—FEES, HOW PAID.] The district board shall have power to admit scholars from adjoining districts, and remove scholars for disorderly conduct, and when scholars are admitted from other districts, the district board may, in their discretion, require a tuition fee from such scholars; or they shall have power to send scholars from their district to any other school within a reasonable distance, and pay a tuition fee therefor, or they may send only advanced scholars to a graded or high school outside of the district, paying tuition fee therefor; and in the collection of taxes and distribution of school money, have the same effect and be the same as though there was a school and teacher kept in

the district for as many months as scholars attend other schools, and the tuition shall be paid out of the teachers' fund.

§ 46. DISTRICT BOARD HIRE TEACHERS.] The district board shall contract with and hire qualified teachers for and in the name of the district, which contract shall be in writing, and shall specify the wages per week or month, as agreed upon by the parties; and such contract shall be filed in the district clerk's office.

§ 47. PROVIDE NECESSARY APPENDAGES OF SCHOOL HOUSE.] The district board shall provide the necessary appendages for the school house during the time school is taught therein; and the bills for the same shall be presented and allowed (if reasonable,) at any regular district meeting.

§ 48. SCHOOLS FREE TO ALL CHILDREN.] The district schools established under the provisions of this act, shall be at all times equally free and accessible to all children under the age of twenty-one years and over five years of age residents of the district, subject to such regulations as the district board in each may prescribe.

§ 49. BRANCHES TO BE TAUGHT.] In every school district there shall be taught orthography, reading, writing, English grammar, geography, and arithmetic, if desired, during the time the school shall be kept, and such other branches of education as may be determined by the district board.

§ 50. SPECIAL MEETING ELECT IN CASE OF VACANCY.] If a vacancy should occur in the district board in any district, the remaining member or members of the board shall, within thirty days, call a special district meeting to elect a new member or members of the board, to serve until the next annual meeting, at which time a new member or members of the board shall be elected to fill vacancy for the unexpired term.

#### REVENUE.

§ 51. COUNTY CLERK TO LEVY POLL AND OTHER TAX.] It shall be the duty of the county clerk of each county, at the time of making the annual assessment, to levy a tax of one dollar on each elector in the county for the support of district schools, and a further tax of three mills on the dollar upon the taxable property of the county, to be applied to the same purpose, to be collected at the same time and in the same manner as prescribed by law for the collection of taxes, which taxes, when collected, shall be distributed to the several school districts in proportion to the number of children over five and under twenty-one years of age therein, and shall be drawn from the county treasury upon the order of the superintendent of schools of the county.

§ 52. DUTIES OF CLERK IN RELATION TO TAXES FOR SCHOOLS.] It shall be the duty of the county clerk, and it is hereby made his duty to make out and charge up to each description of real estate and on all personal property in his county the district school taxes as he is notified has been voted by the district in which it is situated, in the same manner as the county and territorial tax list is prepared, and deliver it to the county treasurer at the same time.

§ 53. COUNTY TREASURER TO COLLECT SCHOOL TAXES.] And it shall be the duty of the county treasurer, and it is hereby made his duty, to collect the taxes for school purposes at the same time and in the same manner as the county and territorial tax is collected, and full power is hereby given him to sell the property, or any property for school taxes, the same as is now by law provided for other taxes; and he shall execute a tax deed on tax sales made for school district taxes, the same as is provided in the case of other taxes, and receive the same fees as is provided in the case of other taxes.

§ 54. MONEYS COLLECTED BY COUNTY TREASURER.] The county treasurer shall collect all moneys due the county for school purposes from fines, forfeitures, or proceeds from the sale of estrays, and all moneys paid by persons as equivalent for exemption from military duty, and he shall pay the same to the said district treasurers as prescribed by this act. He shall collect all delinquent school taxes, as by law provided for other taxes, and he shall pay the same over to the treasurer of the district entitled thereto, less his fees and cost of collecting; and if any county treasurer shall refuse to deliver over to the order of the superintendent any money in his possession, or shall use, or permit to be used, for any other purposes than are specified in this act, any school money in his possession, he shall, on conviction thereof be adjudged guilty of a misdemeanor, and punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year.

§ 55. MONEY IMPROPERLY COLLECTED REFUNDED.] Whenever an error may be discovered in any district tax list, the district board may order any money which may have been improperly collected on such tax list to be refunded.

§ 56. CITY AND TOWN SCHOOLS SHARE.] The public schools of any city, town or village which may be regulated by special law set forth in the charter of such city, town or village, shall be entitled to receive their proportion of the public fund: *Provided*, That the clerk of the board of education in such city or village shall make due report within the time and manner prescribed in this act to the superintendent of schools.

#### MISCELLANEOUS.

§ 57. TEACHERS REPORT AT END OF TERM.] It shall be the duty of the teacher of every district school or graded school, to make out and file with the district clerk, at the expiration of each term of school, a full report of the whole number of scholars admitted to the school during such term, distinguishing between male and female, the text books used, the branches taught, and the number of pupils engaged in the study of said branches. And teachers who shall neglect or refuse to comply with the requirements of this section, shall forfeit his or her wages for teaching such school, at the discretion of the district board.

§ 58. PENALTY FOR FALSE REPORT.] Every clerk of a district board who shall willfully sign a false report to the county superintendent of his county shall be deemed guilty of a misdemeanor and punished by a

fine not exceeding one hundred dollars, or by imprisonment not exceeding three months.

§ 59. PENALTY FOR REFUSAL TO DELIVER BOOKS TO SUCCESSOR.] Every school district clerk or treasurer who shall neglect or refuse to deliver to their successors in office all records and books belonging severally to their offices shall be subject to a fine not exceeding five dollars.

§ 60. TAXES TO PAY JUDGMENT.] Whenever any final judgment shall be obtained against any school district, the district board shall levy a tax on the taxable property in the district for the payment thereof; such tax shall be collected as other school district taxes, but no execution shall issue against any school district.

§ 61. JURISDICTION OF JUSTICES OF PEACE.] Justices of the peace shall have jurisdiction in all cases in which a school district is a party interested, when the amount claimed by the plaintiff shall not exceed one hundred dollars, and the parties shall have the right to appeal as in other cases.

§ 62. COMPENSATION OF SCHOOL DISTRICT OFFICERS.] No school district officer mentioned in this act shall receive any compensation for his services out of the territorial or county school fund, but a regularly convened district meeting may by vote allow the district board such compensation as they shall deem proper.

§ 63. PENALTY FOR REFUSING TO SERVE.] Any person duly elected at the annual district school meeting to either of the district offices mentioned in this act, who shall omit or refuse to serve as such officer without substantial cause, shall forfeit the sum of ten dollars for such omission or refusal, which amount may be recovered by the district in civil action before any justice of the peace in the county where such district is located, and shall be appropriated to the support of schools in his district by whom such action was prosecuted.

§ 64. COURTS TO COLLECT CERTAIN FINES.] All fines and penalties not otherwise provided for in this act shall be collected by action in any court of competent jurisdiction.

§ 65. DISPOSITION OF MONEY DONATED.] Whenever any sum of money shall be paid into the county treasury by any educational aid society or benevolent person or persons for the cause of education, the county treasurer shall issue to such society or person a certificate of deposit stating the amount of money received, from what source, and for what source, and for what purpose the same is applied, whether to the payment of teachers wages, the building or leasing of school houses, or the purchase of a site of land, and the particular school district or districts to which the said money is donated; and the said educational fund may thereafter be drawn from the county treasurer by order of the county superintendent of schools and applied by the district board of the proper district to the object specified in the certificate of donation. And the county superintendent of public schools shall make a statement of the expenditure of said fund in his annual report.

§ 66. TEACHERS' INSTITUTES—APPROPRIATION.] The territorial superintendent of public instruction, in connection with the county superintendent of

each county, shall annually hold a session of the teachers' institute, of not more than ten days in length, and the sum of one hundred dollars is hereby appropriated from any funds in the territorial treasury not otherwise appropriated, for the purpose of employing experienced teachers to assist in conducting the same, and defraying other expenses; the several county superintendents are hereby required to aid in conducting the said institute.

§ 67. SPECIAL COUNTY INSTITUTES.] The superintendent of public instruction shall each year, upon the request of any county superintendent, accompanied by a petition signed by not less than ten teachers residing in his county, appoint a county teachers institute, which shall continue in session not less than one week, and not more than four weeks: *Provided, however,* Any two or more county superintendents may join in requesting the superintendent of public instruction to appoint a county institute in one of the counties represented by them, by forwarding with such request a petition signed by not less than ten teachers residing in said counties. And the sum of fifty dollars is hereby appropriated out of any funds in the territorial treasury not otherwise appropriated, for the purpose of defraying the expenses of each county institute held under the provisions of this section. And the territorial auditor shall issue a certificate to the amount of fifty dollars upon the certificate of the superintendent of public instruction, that any county superintendent or county superintendents have made the required application for such county institute; and it may be required by county superintendents of teachers applying for certificates to teach, that they shall attend the sessions of the county institute, unless prevented by sickness or some unavoidable occurrence.

§ 68. CERTIFICATE OF VALUATION.] It shall be the duty of all county or township assessors to furnish to the school district clerks within their respective counties or townships, at least three days before the annual school meeting, a certificate of the total valuation of all taxable property, real and personal, within each school district respectively.

§ 69. OUTLINE DISTRICT MAPS ] It shall be the duty of the county superintendent to furnish the county or township assessors with an outline map showing the boundaries of the school districts, in time for the provisions of the preceding section.

FORMS.

§ 70. The form of notice of the first district school meeting, may be substantially as follows:

To.....a house holder in school district number.....  
 The county superintendent has formed school district number.....in the county of  
 .....of which the following is a description.....and you are  
 hereby directed to post this notice in at least five public places in said district, notifying the  
 voters of said district to attend the first meeting thereof, which is appointed to be held at the  
 house of.....in said district on the.....day of.....18....at  
 .....o'clock.....

.....  
 County Superintendent of Public Instruction.

This.....day of.....18....

§ 71. The form of notice for annual district meeting may be as follows:

Notice is hereby given to the voters of school district number.....of.....
county, that the annual meeting of said district will be held at.....on.....
day of.....18.....at.....o'clock....
This.....day of.....18..

District Clerk.

§ 72. The form of order on the district treasurer may be as follows:

To.....treasurer of school district number.....of the
county of.....
Pay to the order of.....the sum of.....dollars for.....
out of any money in your hands belonging to the.....fund not otherwise
appropriated, belonging to said district.

District Clerk.

Director.

Dated at.....D. T., this.....day of.....18....

§ 73. The form of bond of district treasurer may read as follows:

Know all men by these presents, that we.....treasurer of school district
number.....county.....and.....his
surety, are held and firmly bound unto school district No.....in the sum of
.....dollars, for the payment of which we bind ourselves severally
and jointly, our heirs, executors and administrators, firmly by these presents. Sealed with our
seals. Dated this.....day of.....18....

The conditions of the above obligation is such that if said.....treasurer
as aforesaid, shall faithfully discharge the duties of his office as treasurer of school district
number.....county.....as prescribed by law, then this obligation
to be void, otherwise to remain in full force.

Signed, sealed and delivered, in presence of

.....
.....

.....[SEAL.]
.....[SEAL.]
.....[SEAL.]

§ 74. Vouchers may be in the following form:

Received.....18...of.....treasurer of school district
number.....county of.....dollars, for services
rendered as teacher in the said district, for the term of.....months.
.....Teacher.

§ 75. The form of contracts between district and teacher may read as follows:

It is hereby agreed between school district number.....county of.....
and.....teacher, That the said.....is to teach the common
school of said district for the term of.....months, for the sum of.....
dollars per.....commencing on the.....day of.....18....and
for such services properly rendered, the said school district is to pay.....the
amount that may be due according to this contract on or before the.....day of
....., 18....District Board.
This.....day of.....18....
.....Teacher.

§ 76. The form of annual report of district treasurer may be substan-
tially as follows:

I.....treasurer of school district number.....county of
.....submit the following report of all moneys received and disbursed by me
since the last annual meeting:
Amount on hand last report.....\$
Amount received from county treasurer.....\$
Total amount received.....\$
Which has been placed to the credit of the following funds:
School house.....\$
Teachers.....\$
Contingent.....\$



§ 78. A school teacher's certificate may be in the following form:

Dakota Territory.....County.....A. D. 18....  
 This is to certify that.....has been examined by me, and found competent to give instruction in reading, orthography, writing, arithmetic, English grammar, geography and....  
 .....and having exhibited satisfactory testimonials of good moral character, is authorized to teach these branches in any common school within this county.

.....  
 Superintendent of Public Instruction.....County.

§ 79. Form of deed of school property may be as follows:

This indenture made the.....day of.....one thousand eight hundred and...between  
 .....and.....and.....his wife, of the county of.....  
 Dakota Territory, parties of the first part, and.....of district board of district  
 number.....county and territory aforesaid, parties of the second part, witnesseth that  
 the said parties of the first part, in consideration of.....dollars to them in hand paid before  
 the delivery thereof, have bargained and sold, and by these presents do grant and convey to  
 the said parties of the second part, their successors in office and assigns forever (here describe  
 the property) with the appurtenances and all the estate, title and interest of the said parties of  
 the first part, do hereby covenant and agree with the said parties of the second part, that at  
 the time of the delivery hereof, the said parties of the first part were the lawful owners of the  
 premises above granted and seized thereof in fee simple absolute, and they will warrant and  
 defend the above granted premises in the peaceful possession of the said parties of the second  
 part, their successors and assigns forever.

Sealed and delivered in presence of .....[SEAL.]  
 .....[SEAL.]

Territory of Dakota, )  
 .....County. )

Personally appeared before me, a.....within and for the county above named.....  
 and.....his wife, to me known to be the persons whose names are affixed to the  
 above deed as grantors, and acknowledged the same to be their voluntary act and deed; and  
 the said.....being at the same time by me made acquainted with the contents of the  
 above deed apart from her husband, acknowledged that she executed the same voluntarily, and  
 that she is still satisfied therewith.

Witness my hand and seal this.....day of.....A. D. 18....

§ 80. REPEAL, EFFECT OF.] Chapter forty of the session laws of 1875, and  
 all acts and parts of acts heretofore passed in relation to common schools,  
 are hereby repealed: *Provided*, That such repeal shall not affect any rights  
 or liabilities that have accrued under and by virtue of said act or acts:  
*And provided further*, That all officers that have been duly elected and  
 qualified in accordance with the provisions of said act, shall continue to  
 hold and discharge the duties of their respective offices until their succes-  
 sors are duly elected and qualified.

§ 81. IMMEDIATE EFFECT—LIMITATION.] This act shall take effect from and  
 after its passage and approval: *Provided, however*, That nothing herein  
 contained shall be construed so as to interfere in any manner with the  
 provisions of an act passed at the recent session of the legislative assem-  
 bly establishing a board of education for the city of Yankton, regulating  
 the management of the public schools therein.

Approved, February 17, 1877.

## CHAPTER 41.

### PROTECTION OF BIRDS.

AN ACT for the Protection of Game.

§ 1. UNLAWFUL TO SELL.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* That it shall be unlawful for any person or persons to kill, ensnare or trap in any form or manner, or by any device whatsoever, for the purpose of sale, trade or traffic, any quail, prairie chicken, grouse, plover, snipe or curlew, at any time

§ 2. UNLAWFUL TO KILL AT CERTAIN TIMES.] That it shall be unlawful for any person or persons to kill, ensnare or trap in any form or manner, or by any device whatsoever, any quail, prairie chicken, grouse, snipe, plover or curlew, between the first day of January and the fifteenth day of August in each and every year.

§ 3. UNLAWFUL TO KILL ON OTHERS PREMISES.] That it shall be unlawful for any person or persons to kill, ensnare or trap in any form or manner, or by any device whatsoever, any quail, prairie chicken, grouse, snipe, plover or curlew, or any premises owned or occupied by any other person or persons without the consent of such person or persons.

§ 4. PENALTY FOR VIOLATION.] Any person or persons who shall violate sections one, two or three of this act, and every person or corporation, or any employee thereof, who shall sell, expose for sale, or shall have in his or their possession or custody, with intent to sell, dispose of, or transport any quail, prairie chicken, grouse, snipe, plover or curlew, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined two dollars for each such quail, prairie chicken, grouse, snipe, plover or curlew so killed, destroyed, taken, sold, exposed for sale, or had in possession for transportation, together with costs of prosecution.

§ 5. REPEAL OF FORMER ACT.] Chapter 49 of the eleventh general assembly being "an act making it unlawful to kill quail during certain months," approved January 15th, 1875, is hereby repealed.

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

Approved, February 16, 1877.

## CHAPTER 42.

### COUNTY BOUNDARIES AND ORGANIZATION.

AN ACT to define the boundaries of and name certain counties in the Territory of Dakota.

§ 1. CUSTER COUNTY DEFINED.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* That the county of Custer shall be bounded as follows: Commencing at the northwest corner of Forsythe county where the west fork of the Big Cheyenne river intersects the boundary line dividing the territory of Dakota and the territory of Wyoming; and running thence north along said boundary line to a point ten (10) miles south of the point where the forty-fourth parallel of north latitude intersects said boundary line; thence east in a direct line to the channel of the South Fork of the Big Cheyenne river; thence southwesterly along said channel of the South Fork of the Big Cheyenne and the northern boundary of the county of Forsythe to the place of beginning.

§ 2. PENNINGTON COUNTY.] That the county of Pennington shall be bounded and described as follows: Commencing at a point where the forty-fourth parallel of north latitude intersects the boundary line dividing the territory of Dakota and the territory of Wyoming; thence running north along said boundary line ten (10) miles; thence east in a direct line to the channel of the South Fork of the Big Cheyenne river; thence southerly along said channel of the South Fork to the point where the northern boundary line of Custer county intersects the said South Fork of the Big Cheyenne; thence west along the northern boundary of Custer county to the boundary line dividing the territory of Dakota and the territory of Wyoming; thence north along said boundary line ten (10) miles to the place of beginning.

§ 3. LAWRENCE COUNTY.] That the county of Lawrence shall be bounded and described as follows: Commencing at a point on the boundary line dividing the territory of Dakota and the territory of Wyoming, at the northwest corner of Pennington county; thence east along the northern boundary of Pennington county to its intersection with the channel of the South Fork of the Big Cheyenne; thence northerly along said South Fork to its confluence with the Belle Fourche river; thence running northwesterly along said Belle Fourche and East Fork of the Big Cheyenne river to the point where the said East Fork, or Red Water, intersects the boundary line dividing the territory of Dakota and the territory of Wyoming; thence south along said boundary line to the place of beginning.

§ 4. ZIEBACH COUNTY.] That all that part of the county of Pennington as laid down and described in section 6, chapter 29, laws of 1874 and 1875, as is not included within the metes and bounds, as described in section 2 of this act, be made a separate county, and the same to be called Ziebach county.

§ 5. BOUNDARIES MODIFIED.] The boundaries of the counties of Custer and Lawrence are hereby modified and corrected in accordance with the provisions of this act.

§ 6. GOVERNOR APPOINTS OFFICERS.] The governor is hereby authorized, and it is made his duty, when the country embraced within said counties herein described comes under the jurisdiction of this territory, or as soon as practicable, and he can obtain the necessary information after the passage and approval of this act, and without the petition of voters otherwise required, to appoint for each of said counties three county commissioners, who shall constitute the board of county commissioners, one register of deeds, one sheriff, one treasurer, one judge of the probate court, one district attorney, one coroner, one superintendent of public schools, and one assessor; and said officers, so appointed, shall hold their offices respectively until their successors shall be elected and qualified according to law.

§ 7. OFFICERS QUALIFY.] Immediately after the appointment the said commissioners for each of said counties respectively shall meet at a place within their county, to be agreed upon, and elect one of their number chairman of the board, who shall immediately administer the oath of office to the other commissioners, and one of them shall then administer the like oath to him. The chairman shall then administer the oath of office to the judge of the probate court, and he is then authorized and required to administer the like oath to each of the other officers herein authorized to be appointed. Said oaths shall be in writing, and certified by the person or officer administering them, and must be filed in the office of the register of deeds for the county. Such officers must each thereafter, and as early as practicable give the bond as required by law, and shall immediately enter upon the discharge of their respective duties according to law.

§ 8. BOARDS APPOINT—SPECIAL ELECTION—TERMS ] Said board of county commissioners for each county is hereby authorized to appoint all other officers authorized by law for said counties, except justices of the peace, and they shall qualify as required by law. The said boards shall also cause an election to be held in each of their counties respectively, upon notice to be posted in writing not less than twenty days before said election, in five public places in the county, for the election of four justices of the peace in each county, which election shall be held, and the returns thereof made, as provided by the election law of the territory; except that the returns must be made to the register of deeds within six days, and the canvass thereof within ten days after said election; and the justices of the peace so elected may qualify as provided by law, immediately, or as soon as practicable after their election, and shall enter upon their duties at once. Such justices shall hold their offices

until their successors shall be elected at the general election in 1877, and shall qualify.

§ 9. QUORUM OF BOARD, CLERK AND RECORD.] Any two commissioners appointed as herein provided, shall constitute a quorum, and may perform all the acts required to all legal intents and purposes the same as if the three were present and acting; and the register of deeds so appointed shall be, ex-officio, county clerk, and act as such, and the said board of county commissioners must make a journal and preserve the official record of their proceedings from the first, according to law.

§ 10. EFFECT—OTHER LAWS APPLY.] This act shall take effect and be in force from and after its passage and approval, and it amends and modifies all acts and parts of acts inconsistent with its provisions, so far only as it is necessary to carry this act into effect, but all other such acts, except those bounding and defining counties herein defined, are in force, except so far as this act governs and takes the place of other law.

Approved, February 10, 1877.

---

AN ACT changing the Boundaries of the County of Hamlin, creating the County of Codington, and for other purposes.

§ 1. HAMLIN COUNTY DEFINED.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* That the boundaries of the county of Hamlin be and the same are hereby changed and modified, so that hereafter the said county of Hamlin shall be bounded as follows, to-wit: Beginning at the southwest corner of Duel county, thence north along the west line of said county of Duel to the northeast corner of township one hundred and fifteen, of range fifty-one; thence west along the line between townships one hundred and fifteen and one hundred and sixteen, to the northwest corner of township one hundred and fifteen of range fifty-five; thence south along the line between ranges fifty-five and fifty-six to the north line of Wood county, thence east along the north line of the said county of Wood to the northwest corner of the county of Brookings, thence east along the north line of said county of Brookings to the place of beginning.

§ 2. CODINGTON COUNTY BOUNDED.] That all that district of county included within the following boundaries, to-wit: Beginning at the northeast corner of the county of Hamlin, as bounded in the last section; thence north along the line between ranges fifty and fifty-one, to the northeast corner of township one hundred and nineteen, of range fifty-one; thence west along the line between townships one hundred and nineteen and one hundred and twenty, crossing the Wahpeton and Sisseton Indian reservation in the same course, and continuing in same course to the northwest corner of township one hundred and nineteen, of range fifty-five; thence south along the line between ranges fifty-five and fifty-six, to the northwest corner of the said county of Hamlin; thence east along the north line

---

of said county of Hamlin to the place of beginning, be and the same is hereby made and constituted the county of Codrington.

§ 3. GRANT AND CLARKE COUNTIES MODIFIED.] The boundaries of the counties of Grant and Clarke are hereby changed and modified to conform with the provisions of this act.

§ 4. REPEAL.] All acts and parts of acts so far as they conflict with the provisions of this act, are hereby repealed.

§ 5. IMMEDIATE EFFECT.] That this act shall take effect and be in force from and after its passage and approval.

Approved, February 15, 1877.

## CHAPTER 43.

### PUBLICATION OF LAWS.

AN ACT making Appropriations for the purpose of publishing the Laws of Dakota Territory, passed at the twelfth session of the Legislative Assembly, and reimburse E. A. Sherman for expenses incurred as a witness for attendance before the committee of Ways and Means.

§ 1. FIVE THOUSAND DOLLARS TO PRINT LAWS.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* There is hereby appropriated from any funds in the territorial treasury not otherwise appropriated, the sum of five thousand dollars, the same to be paid in territorial warrants at their par value, for the purpose of printing, indexing and binding, one thousand copies of the laws of the territory of Dakota passed at the twelfth session of the legislative assembly, and the printing of said laws shall be under the sole and exclusive management and control of the secretary of said territory, and any and all moneys which may be appropriated by congress for the purpose of printing said laws, shall be used for the purpose of reimbursing the territory, and shall be paid into the territorial treasury for such purpose and no other.

§ 2. WHAT LAWS TO BE PRINTED.] There shall only be published the general laws and public acts of the territory, passed at said twelfth session of the legislative assembly, after the same shall have been approved by the governor.

§ 3. WITNESS FEES REIMBURSED.] There is hereby appropriated from any funds in the territorial treasury, not otherwise appropriated, the sum of twenty dollars, to be paid by territorial warrants to E. A. Sherman, to reimburse him for expenses incurred as a witness before the ways and means committee, by order of the house of representatives.

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

Approved, February 17, 1877.

## CHAPTER 44.

## LEGALIZING ACTS OF TERRITORIAL OFFICERS.

AN ACT to Legalize the Official Acts of certain Territorial Officers therein Named.

§ 1. ACT OF ELECTED TERRITORIAL OFFICERS LEGALIZED.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* That the official acts of the persons who have from time to time, since the first organization of the territory, held the offices of territorial auditor, territorial treasurer, territorial superintendent of public instruction, territorial superintendent of immigration and territorial commissioner of immigration, by authority of election by the people, under any territorial laws, be and the same are hereby confirmed and legalized, and the same shall be deemed and held as valid and binding as though the said officers had been nominated by the governor, by and with the consent of the territorial council.

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

Approved, February 13, 1877.

CHAPTER 45.  
REPEAL OF RELIEF BOND ACT.

AN ACT relative to Territorial Bonds.

§ 1. GRASSHOPPER-BOND ACT REPEALED.] *Be it enacted by the Legislative Assembly of the Territory of Dakota, That the act passed the 15th day of January, 1875, by the legislative assembly of the territory of Dakota, being chapter 24, entitled "an act to provide assistance and seed grain to those settlers in the territory who are needing aid by reason of a failure of crops," be and the same is hereby repealed.*

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

Approved, January 24, 1877.

## CHAPTER 46.

### DEFINING JUDICIAL DISTRICTS.

AN ACT to Establish the Boundaries of the Judicial Districts of this Territory.

§ 1. FIRST DISTRICT BOUNDARIES.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* All that portion of the territory of Dakota west of the right bank of the Missouri river at low water mark, and south of the forty-sixth parallel of latitude, shall constitute the first judicial district.

§ 2. SECOND DISTRICT.] All that portion of this territory north of the forty-sixth parallel of latitude shall constitute the third judicial district.

§ 3. THIRD DISTRICT.] All that portion of this territory not embraced in the first and third judicial districts shall constitute the second judicial district.

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

§ 5. LOCATION OF COURT IN THIRD DISTRICT.] That the district court in and for the third judicial district shall be held at Bismarck in the county of Burleigh on the second Tuesday of April and third Tuesday of September of each year.

§ 6. LOCATION OF SECOND DISTRICT COURT.] The district court in and for the second judicial district shall be held at Yankton, in Yankton county, on the second Tuesday of March and November of each year.

§ 7. LOCATION OF FIRST DISTRICT COURT.] The district court in and for the first judicial district shall be held at the county seat of Pennington county on the first Tuesday of May and October of each year.

§ 8. UNITED STATES JURISDICTION.] The district courts mentioned in this act shall exercise the power appertaining to district and circuit courts of the United States for the several districts in which they are located.

§ 9. REPEAL OF ACTS.] Chapter 55, laws 1874-75, and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 10. EFFECT ON CONTINGENCY.] This act shall take effect and be in force from and after its passage and approval, and the ratification by congress of the agreement with the Sioux Indians ceding the Black Hills.

Approved, February 15, 1877.

## SUPPLEMENTAL ACT.

AN ACT supplemental to "An Act establishing the boundaries of the Judicial Districts of this Territory," passed at the Twelfth Legislative Session.

§ 1. PART OF BOREMAN COUNTY IN THE THIRD DISTRICT.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* All that portion of the county of Boreman lying north of Grand river shall be embraced within, and it is hereby made a part of, the third judicial district.

§ 2. ADDITION TO SECOND DISTRICT.] The counties of Todd, Gregory, Lyman and Presho are attached to and made a part of the second judicial district.

§ 3. LOCATION OF FIRST DISTRICT COURT.] The district court within and for the first judicial district shall be held at the county seat of Pennington county, on the fourth Tuesday of May and the second Tuesday of September in each year.

§ 4. LOCATION OF THIRD DISTRICT COURT.] The district court within and for the third judicial district shall be held at Bismarck on the third Tuesday of April and the second Tuesday of October in each year.

§ 5. CERTAIN TERMS AUTHORIZED.] Nothing contained in this act, nor the one to which it is supplemental, shall be construed as to prevent the holding of the courts within and for the first and second judicial districts in February and April respectively of the present year, as provided for in chapters 55 and 56 of the session laws of 1874-5, but said terms shall be held as therein provided.

§ 6. CONSTRUCTION AND FORCE OF ACT.] This act shall be construed in connection with the act to establish the boundaries of the judicial districts of this territory passed at the present session, which is so far modified and amended as to allow this act to have full force and effect, and no further.

§ 7. EFFECT CONTINGENT.] This act shall take effect and be in force from and after its passage and approval by the governor, and the ratification by congress of the agreement with the Sioux Indians ceding the Black Hills.

Approved, February 17, 1877.

## CHAPTER 47.

### CONTESTS OF LEGISLATIVE ELECTIONS.

AN ACT to Regulate the Mode of Procedure in Cases of Contested Elections of Members of the Legislative Assembly.

§ 1. NOTICE OF CONTEST.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* Whenever any person intends to contest an election of any member of the legislative assembly of the territory of Dakota, he may within ten days after the result of such election shall have been determined by the officers or board of canvassers authorized by law to determine the same, give notice in writing to the member whose seat he designs to contest, of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest.

§ 2. ANSWER OF NOTICE.] Any member upon whom the notice mentioned in the preceding section, may be served, shall, within ten days after the service thereof, answer such notice, admitting or denying the facts alleged therein and stating specifically any other grounds upon which he rests the validity of his election, and shall serve a copy of his answer in the contest; and all allegations set forth in the notice not denied in the answer shall be taken as admitted.

§ 3. PERIODS FOR CANVASS LIMITED.] In all elections in any council or representative district at which any member of the legislative assembly is elected, the officers or board of canvassers whose duties it is to canvass the returns of said district, shall do so within twenty days from said election, and the canvass for county officers shall take place within fifteen days after said election; and sections thirty-one and thirty-six of chapter seventeen, approved, January 13th, 1871, being an act entitled "an act providing for elections and to prescribe the canvass and return of the same," is hereby amended accordingly.

§ 4. TESTIMONY WHEN TAKEN.] In all contested election cases the contestant may begin to take testimony as soon as the notice specified in section one is served; and the returned member may take testimony as soon as his answer is served; and both parties to said contest may continue to take testimony for ten days after the time for serving the answer of the returned member has expired, after which time the contestant may take testimony in rebuttal only for five days.

§ 5. DEPOSITIONS--NOTICE HOW SERVED.] The party desiring to take a deposition under the provisions of this chapter, shall give the opposite

party notice in writing of the time and place when and where the same will be taken, of the names of the witnesses to be examined and their place of residence, and the name of an officer before whom the same will be taken. The notice shall be personally served upon the opposite party, or by any agent or attorney authorized by him to take testimony or cross examine witnesses in the matter of such contest. If by the use of reasonable diligence personal service cannot be made, the service may be made by leaving a copy of the notice at the usual place of abode of the opposite party. The notice shall be served so as to allow the opposite party sufficient time by the usual routes of travel to attend, and one day for preparation, exclusive of Sundays and the day of service.

§ 6. PLACES TO TAKE TESTIMONY.] Testimony on contested election cases under this chapter shall not be taken at more than two places at the same time by either party.

§ 7. SUBPŒNAS APPLIED FOR.] When any contestant or returned member is desirous of obtaining testimony respecting a contested election, he may apply for a subpœna to any officer having a seal, or any justice of the peace for any county where the testimony is to be taken.

§ 8. SUBPŒNAS AUTHORIZED.] The officer to whom the application authorized by the preceding section is made shall thereupon issue his writ of subpœna directed to all such witnesses as shall be named to him, requiring their attendance before him at some time and place named in the subpœna. in order to be examined respecting the contested election.

§ 9. DEPOSITIONS WITHOUT NOTICE.] It shall be competent for the parties, their agents or attorneys authorized to act in the premises, by consent in writing, to take depositions without notice. Any written consent given as aforesaid shall be returned with the depositions.

§ 10. SUBPŒNA SERVED.] Each witness shall be duly served with a subpœna by a copy thereof, delivered to him or at his place of abode.

§ 11. ATTENDANCE ONLY IN COUNTY.] No witness shall be required to attend an examination out of the county in which he may reside, or be served with a subpœna.

§ 12. PENALTY FOR FAILURE.] Any person who, having been summoned in the manner above described, refuses or neglects to attend and testify unless prevented by sickness or unavoidable necessity, shall forfeit the sum of twenty dollars, to be recovered with costs of suit, by the party at whose instance the subpœna was issued, and for his use, by action of debt, and shall also be liable to an indictment for a misdemeanor and punishment by fine and imprisonment.

§ 13. NON-RESIDENT WITNESSES.] Depositions of witnesses residing outside of the district and beyond the reach of subpœna may be taken before an officer authorized to take testimony in civil actions.

§ 14. EXAMINATION OF WITNESSES.] All witnesses who attend in obedience to a subpœna, or who attend voluntarily at the time and place appointed, of whose examination notice has been given, as provided by this chapter, shall then and there be examined on oath by the officer who issued the subpœna, or in case of his absence by any other officer who is authorized to issue

such subpoena, or by the officer before whom the depositions are to be taken by written consent, as the case may be, touching all such matters respecting the election about to be contested as shall be proposed by either of the parties or their agents or attorneys.

§ 15. EVIDENCE CONFINED TO ISSUE.] The testimony to be taken by either party to the contest shall be confined to the proof or disproof of the facts alleged or denied in the notice and answer mentioned in sections one and two of this chapter.

§ 16. TESTIMONY WRITTEN.] The officer shall cause the testimony of the witnesses to be reduced to writing in his presence, and in the presence of the parties, or their agents or attorneys, if attending, to be duly attested by the witnesses respectively.

§ 17. PRODUCTION OF PAPERS.] The officer before whom any deposition is taken shall have power to require the production of papers; and on the refusal or neglect of any person to produce and deliver up any paper or papers in his possession pertaining to the election, or to produce certified or sworn copies of the same in case they may be official papers, such person shall be liable to all the penalties prescribed in section 12. All papers thus produced, and all certified or sworn copies of official papers, shall be transmitted by the officer, with the testimony of the witnesses, to the secretary of the territory for the use of the legislative assembly.

§ 18. ADJOURNMENTS.] The taking of the testimony may, if so stated in the notice, be adjourned from day to day.

§ 19. DOCUMENTS TO BE ATTACHED.] The notice to take depositions with the proof or acknowledgment of the service thereof, and a copy of the subpoena, where any has been served, shall be attached to the deposition, when completed, together with a copy of the notice of contest, and answer of the returned member, which shall be annexed to the depositions taken and transmitted with them to the secretary of the territory.

§ 20. TRANSMITTED TO SECRETARY.] All parties taking testimony to be used in a contested election case, when the taking of the same is completed, and without unnecessary delay, shall certify and carefully seal and forward the same to the secretary of the territory by mail at Yankton, Dakota territory, and shall indorse on the same the title of the same; and the secretary is hereby authorized to open the same at the instance of either party, his agent or attorney.

§ 21. FEES OF OFFICERS AND WITNESSES.] Every witness attending by virtue of any subpoena herein directed to be issued, and all officers who may be employed in taking testimony in contested election cases under this chapter, or serving any subpoena or notice herein authorized, shall be entitled to receive from the party at whose instance the service or attendance shall have been performed such fees as are allowed for similar service in civil actions in courts of record in this territory.

§ 22. NO LEGISLATIVE EXPENSE.] No payment shall be made by the legislative assembly out of its contingent fund or otherwise to either party to a contested election case for expenses incurred in prosecuting or defending the same.

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

Approved, February 16, 1877.

## CHAPTER 48.

### LEGISLATIVE APPORTIONMENT.

AN ACT to Apportion the Representation in the Legislative Assembly.

§ 1. FIRST DISTRICT, UNION COUNTY.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* The county of Union shall constitute the first council and representative district, and shall be entitled to two members of the council and four members of the house of representatives.

§ 2. SECOND DISTRICT, CLAY COUNTY.] The county of Clay shall constitute the second council and representative district, and shall be entitled to one member of the council and four members of the house of representatives.

§ 3. THIRD DISTRICT, YANKTON COUNTY.] The county of Yankton shall constitute the third council and representative district, and shall be entitled to two members of the council and four members of the house of representatives.

§ 4. FOURTH DISTRICT, BON HOMME COUNTY.] The county of Bon Homme shall constitute the fourth council and representative district, and shall be entitled to one member of the council and one member of the house of representatives.

§ 5. FIFTH DISTRICT, LINCOLN AND TURNER COUNTIES.] The counties of Lincoln and Turner shall constitute the fifth council and representative district, and shall be entitled to two members of the council and three members of the house of representatives.

§ 6. SIXTH DISTRICT, MINNEHABA COUNTY.] The county of Minnehaha shall constitute the sixth council and representative district, and shall be entitled to one member of the council and two members of the house of representatives.

§ 7. SEVENTH DISTRICT, CASS, RICHLAND, ETC.] The counties of Cass, Richland, Ransom, Barnes and Stutsman shall constitute the seventh council and representative district, and shall be entitled to one member of the council and one member of the house of representatives.

§ 8. EIGHTH DISTRICT, GRAND FORKS AND PEMBINA COUNTIES.] The counties of Pembina and Grand Forks shall constitute the eighth council district, and be entitled to one member of the council.

§ 9. NINTH DISTRICT, BURLEIGH AND STEVENS COUNTIES.] The counties of Burleigh and Stevens shall constitute the ninth council and representative district, and shall be entitled to one member of the council and one member of the house of representatives.

§ 10. TENTH DISTRICT, HUTCHINSON, ARMSTRONG, ETC.] That the counties of Hutchinson, Armstrong, Hanson and Davison shall constitute the tenth representative district, and shall be entitled to one member of the house of representatives.

§ 11. ELEVENTH DISTRICT, BROOKINGS, LAKE, ETC.] That the counties of Brookings, Lake and Moody shall constitute the eleventh representative district, and shall be entitled to two members of the house of representatives.

§ 12. TWELFTH—TRAILL COUNTY.] The county of Traill shall constitute the twelfth representative district, and shall be entitled to one member of the house of representatives.

§ 13. THIRTEEN—PENNINGTON, CUSTER, ETC.] The counties of Lawrence, Pennington and Custer shall constitute the thirteenth council and representative district, and shall be entitled to one member of the council and two members of the house of representatives. The counties of Charles Mix, including the Yankton reservation, Brule, Hyde, Hughes, Buffalo and Sully are attached to the thirteenth council and representative district for election purposes.

§ 14. IF TERRITORY DIVIDED.] In case of a division of the territory of Dakota by congress, by the formation of a new territory out of the northern portion thereof, and the ratification of the agreement for ceding the Black Hills by congress, in addition to the representation given by the preceding section, there shall be allowed to the county of Lawrence one member of the council and two members of the house of representatives, and there shall be allowed the counties of Pennington and Custer two members of the council and one member of the house of representatives.

§ 15. CONTINGENT ADDITIONS.] In case of the division of the territory of Dakota, by the formation of a new territory from the northern portion thereof, there shall be allowed, in addition to the representation provided for by this act, one member of the house of representatives to the counties of Lincoln and Turner, one member of the council to the county of Minnehaha, one member of the council to the county of Yankton, one member of the council to the county of Clay, one member of the house of representatives to the county of Bon Homme, and one member of the house of representatives to the county of Union; and if, at the time of the general election in 1878, the district of the Black Hills should not be under the jurisdiction of the territory of Dakota, then the representatives named in section thirteen shall be distributed as follows: one member of the house of representatives to the county of Union, one member of the council to the county of Yankton, and one member of the house of representatives to the counties of Hutchinson, Armstrong, Hanson and Davison.

§ 16. IMMEDIATE EFFECT.] This act shall take effect and be in force from and after its passage and approval by the governor.

Approved, February 17, 1877.

## CHAPTER 49.

### REAL ESTATE OF RELIGIOUS BODIES.

AN ACT relative to the Holding and Transferring of Real Estate by any legal Officer of a Religious Society and their Successors in Office.

§ 1. TITLE VESTS IN SUCCESSORS, IN TRUST.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* That all grants or deeds from private individuals, or acts of legislative bodies, transferring, conveying or granting real estate in this territory to any bishop, dean, rector, vestryman, deacon, director, minister or any other officer or officers of any church or organized religious society in trust for the use and benefit of such society of which they are such officer or officers, which have been or may be made, done or executed, shall vest in their successor or successors in office, or other officer which such society may at any time designate, all the legal or other title, to the same extent and in all respects the same, as trustee of such trust, for the use and benefit of such society, which such bishop, dean, rector, vestryman, deacon, director, minister or other officer or officers, had under such grant, deed or act; and all transfers or sales made by such officer or officers so acquiring title by virtue of this act by succession in office shall have all the validity, force and effect that it would have had had it been made by such bishop, dean, rector, vestryman, deacon, director, minister or other officer or officers, while holding under and by virtue of such grant, deed or act of such legislative body.

§ 2. IMMEDIATE EFFECT.] This act shall take effect and be in force from and after its passage and approval by the governor.

Approved, January 11, 1871.

## CHAPTER 50.

### REGISTRATION OF WARRANTS.

AN ACT to Provide for the Registration of Warrants and Regulating the Order of Paying the Same.

§ 1. ORDER OF PAYMENT.] *Be it enacted by the Legislative Assembly of the Territory of Dakota,* That all warrants upon the territorial treasurer, the treasurer of any county or any municipal corporation therein, issued after January first, 1875, shall be paid in the order of their presentation therefor.

§ 2. WARRANT REGISTER—ENTRIES.] The territorial treasurer and the treasurer of every organized county and every incorporated city or town therein, shall provide himself with, and keep a warrant register, which register shall show in a column arranged for that purpose, the number, date and amount of each warrant presented, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person to whose name the same is registered, the date of payment when made, the amount of interest and the total amount paid thereon with the date when notice to the person in whose name such warrant is registered, is mailed as hereinafter provided.

§ 3. DUTY OF OFFICER—FEE.] It shall be the duty of every such treasurer, upon the payment of a fee of ten cents, when the amount is less than twenty-five dollars, and twenty-five cents if over that amount, by the holder of any warrant, or by any person presenting the same for registration, in the presence of such person, to enter such warrant in his warrant register for payment in the order of presentation for registration, and upon every warrant so registered he shall endorse "registered for payment" with the date of such registration, and shall sign such endorsement: *Provided,* That nothing in this act shall be construed to require the holder of any warrant to register the same, or to modify or repeal the law as it now is relating to presentation and endorsement if "not paid for want of funds" and interest thereafter.

§ 4. FUNDS SET ASIDE IN SEALED PACKAGE.] It shall be the duty of every such treasurer to set aside in a special and sealed package the money for the payment of each registered warrant in the order of its registration, as soon as money sufficient for the payment of such warrant is received to the credit of the particular fund upon which such warrant is drawn. Such package shall be indorsed with the number and description of such warrant, and the name and address of the person to whose name the same

is registered, and interest upon such warrant shall thereupon cease, and such treasurer shall by mail immediately notify the person in whose name the same is registered, and shall endorse the date of the mailing of such notice upon such sealed package, and shall pay over to the party holding such warrant such sum when called for.

§ 5. DAILY FOOTING OF RECEIPTS.] Every such treasurer shall daily, as moneys are received, foot the several columns of his cash book, and of his register, and carry the amounts forward, and at the close of each year, in case the amount of money received by such treasurer is insufficient to pay the warrants so registered, he shall close the account for that year in such register, and shall carry forward the excess.

§ 6. FAILURE OF OFFICER—FORFEITURE.] Any such treasurer who shall fail regularly to enter upon his cash book the amounts so received, or who shall fail to keep his cash book footed from day to day, as required by this act, for the space of three days, shall forfeit for each offense, the sum of one hundred dollars, to be recovered in a civil action on his official bond, by any person holding a warrant drawn on such treasurer.

§ 7. INSPECTION OF BOOKS.] The cash book and register of every such treasurer shall at all times be open to the inspection of any person in whose name any warrant is registered and unpaid.

§ 8. FAILURE TO MAIL NOTICE—PENALTY.] Any treasurer who shall for the period of five days after moneys in amount sufficient to pay any registered warrant in its order have been received, fail to mail notice thereof to the person registering such warrant, shall forfeit to such person ten per cent. on the amount of such warrant, and ten per cent. additional for every thirty days thereafter during which such failure shall continue.

§ 9. PENALTY ON BOND.] Any such treasurer who shall fail to register any warrant in the order of its presentation therefor, or shall fail to pay the same in the order of its registration, shall be liable on his official bond to each and every person, the payment of whose warrant is thereby postponed, in the sum of three hundred dollars, to be recovered in a civil action.

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

§ 11. WARRANTS FOR TAXES.] Nothing in this act shall be so construed as to prevent payment of taxes in warrants as now provided by law: *Provided, further,* That this act shall not apply to the counties of Minnehaha and Union.

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

Approved, January 14, 1875.