

L A W S

PASSED AT THE

FIFTEENTH SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF DAKOTA.

BEGUN AND HELD AT YANKTON, THE CAPITAL OF SAID TERRITORY, ON TUESDAY THE 9th DAY OF JANUARY, A. D. 1883, AND CONCLUDED MARCH 9th, A. D. 1883.

YANKTON, D. T.
BOWEN & KINGSBURY, PUBLIC PRINTERS,
PRESS AND DAKOTAIAN,
1883.

PUBLIC LAWS.

TABLE OF CONTENTS.

ACKNOWLEDGMENTS.

	PAGE.
CHAPTER 1.—An act to amend section 556 of article 3 of chapter 4 of the Civil Code, entitled "Proof and Acknowledgment of Instruments."	1

AGRICULTURAL COLLEGE.

CHAPTER 2.—An act to amend chapter 3 of the laws of 1881	2
CHAPTER 3.—An act to provide for an agricultural college fund for Dakota, and providing for the erection and construction of an agricultural college at Brookings, Dakota	4
CHAPTER 4.—An act to locate and establish the North Dakota territorial agricultural college.....	8

APPEALS.

CHAPTER 5.—An act to amend section forty-six (46) of chapter twenty-one (21) of the Political Code.....	10
---	----

ARMS.

CHAPTER 6.—An act ratifying the action of the governor in procuring 1,000 stand of arms, and to appropriate funds to pay freight on and for the keeping of the same	11
---	----

APPORTIONMENT.

CHAPTER 7.—An act to amend chapter six of the session laws of 1881.	12
---	----

ATTORNEY GENERAL.

CHAPTER 8.—An act to create the office of attorney general, provide for his appointment and to define his powers and duties, and for other purposes.....	14
--	----

CAPITAL PUNISHMENT.

CHAPTER 9.—An act to amend section two hundred and forty-nine (249); chapter seventeen (17) of the Penal Code.....	16
--	----

CORPORATE STOCK.

CHAPTER 10.—An act to amend section four hundred (400) of the Civil Code, entitled "Corporations.".....	17
---	----

COSTS IN CIVIL ACTIONS.

CHAPTER 11.—An act relating to costs in civil actions.....	17
--	----

COUNTIES.

CHAPTER 12.—An act creating the county of Benson, defining its boundaries, and defining the boundaries of the counties of De Smet and Ramsey.....	19
CHAPTER 13.—An act creating the counties of McCauley and Edgerton and Iaman and Defining their boundaries, and defining the boundaries of the county of Brown, and for other purposes.....	21
CHAPTER 14.—An act defining the boundaries of Brule county.....	24
CHAPTER 15.—An act to create and define the boundaries of the county of Butte, and for other purposes.....	25
CHAPTER 16.—An act to create the counties of Delano, Scobey, Pyatt, Jackson, Sterling and Nowlin, and define the boundaries of each.	28
CHAPTER 17.—An act to change the name of Rusk county, and to create the county of Dewey	29
CHAPTER 18.—An act establishing the county of Fall River and defining the boundaries thereof.....	30
CHAPTER 19.—An act defining and establishing the boundaries of Faulk and Potter counties.....	31
CHAPTER 20.—An act defining the boundaries of the county of Foster.	32
CHAPTER 21.—An act defining the boundaries of the county of Hyde.	33
CHAPTER 22.—An act creating the county of Harvey and defining its boundaries, and for other purposes.....	34
CHAPTER 23.—An act to create and define the boundaries of the county of Jerauld.....	36
CHAPTER 24.—An act defining the boundaries of the county of La-Moure	37
CHAPTER 25.—An act creating the county of McLean and defining the boundaries thereof.....	38
CHAPTER 26.—An act to create the county of McIntosh and define its boundaries	39
CHAPTER 27.—An act defining the boundaries of Nelson county.....	40
CHAPTER 28.—An act creating the county of Nelson, defining its boundaries, and for other purposes.....	41
CHAPTER 29.—An act creating the county of Nickeus, defining its boundaries, and for other purposes.....	42
CHAPTER 30.—An act to create the county of Roberts and define the boundaries thereof, and for other purposes.....	44
CHAPTER 31.—An act to create the county of Sanborn and define its boundaries, and for other purposes.....	46
CHAPTER 32.—An act creating the county of Sargent and defining its boundaries, and for other purposes.....	48
CHAPTER 33.—An act supplemental to an act creating the county of Sargent, defining its boundaries and for other purposes, which became a law March 3, 1883.....	50
CHAPTER 34.—An act creating the county of Schnasse and defining the boundaries thereof.....	51
CHAPTER 35.—An act defining the boundaries of the county of Stanley.	52
CHAPTER 36.—An act creating the county of Steele, defining its boundaries, and for other purposes.....	52
CHAPTER 37.—An act creating the county of Towner, defining its boundaries, and defining the boundaries of the counties of Rolette and Cavalier.....	54

TABLE OF CONTENTS.

v

CHAPTER 38.—An act to create and define the boundaries of the counties of Villard, Bowman, Ewing and Burdick, and to define the boundaries of the counties of Billings and Harding..... 56

CHAPTER 39.—An act pertaining to the subdivision of the counties of Waillette and Howard, Dakota Territory..... 58

CHAPTER 40.—An act to create the counties of Washington, Martin, Wagner, Rinehart, Choteau, Washabaugh, and define the boundaries of each, and for other purposes..... 59

CHAPTER 41.—An act creating the county of Wynn and defining its boundaries..... 61

DEPOSITIONS.

CHAPTER 42.—An act to amend section 471 of the Code of Civil Procedure..... 62

DISTRICT ATTORNEYS AND CLERKS OF COURT.

CHAPTER 43.—An act to create the office of district attorney for the several counties of Dakota Territory, and for other purposes..... 62

EDUCATION.

CHAPTER 44.—An act to establish and provide for the maintenance of a general and uniform system of common schools and improve their usefulness..... 66

CHAPTER 45.—An act to authorize and empower school townships to issue and dispose of their bonds, to provide funds for building and furnishing school houses, and to provide for the payment of the principal and interest thereof..... 124

CHAPTER 46.—An act to create the office of assistant superintendent of public instruction, and to provide for his salary and proper expenses..... 129

ELECTIONS.

CHAPTER 47.—An act to amend an act entitled an act to amend section ten of chapter twenty-seven of the Political Code on elections. 130

CHAPTER 48.—An act to amend section three of chapter twenty-seven of the Political Code, entitled "Elections."..... 131

CHAPTER 49.—An act to legalize the election of township officers in the organized townships in this Territory..... 132

EXEMPTIONS.

CHAPTER 50.—An act relating to exemptions for purchase money..... 132

FEEES.

CHAPTER 51.—An act providing for the payment of attorney's fees to the prevailing party in cases of forcible entry and detainer, or detainer in justices courts..... 133

CHAPTER 52.—An act providing compensation for publishing tax sale. 134

CHAPTER 53.—An act to amend section twenty-two (22) of chapter thirty-nine (39) of the Political Code, entitled "Compensation of public officers," approved February 17, 1877..... 135

CHAPTER 54.—An act requiring sheriffs and other officers to make return of their fees on writs in criminal cases, when returned. 136

FEEES AND COSTS.

CHAPTER 55.—An act to amend section three hundred and seventy-seven and three hundred and Eighty-one and three hundred and eighty-two of the Code of Civil Procedure..... 137

FEES AND DISBURSEMENTS.

- CHAPTER 56.—An act to amend section six hundred and fifteen of the Code of Civil Procedure..... 139

FENCES.

- CHAPTER 57.—An act to require the railroad companies in Dakota Territory, in certain cases, to construct fences..... 140

FIRE ESCAPES.

- CHAPTER 58.—An act providing for fire escapes from hotels in this Territory. 141

FISH.

- CHAPTER 59.—An act to protect fish in the Territory of Dakota..... 142

- CHAPTER 60.—An act to stock with food fishes the waters of Dakota and to protect the same, and for other purposes..... 143

FORECLOSURE.

- CHAPTER 61.—An act to amend section 597 of the Code of Civil Procedure..... 144

- CHAPTER 62.—An act entitled "An act to amend section one thousand seven hundred and forty-three of the Civil Code of Dakota Territory."..... 145

GAME.

- CHAPTER 63.—An act for the protection of game in the Territory of Dakota..... 146

- CHAPTER 64.—An act to protect quail in Dakota Territory..... 147

GLANDERS.

- CHAPTER 65.—An act to prevent the spread of glanders, and to provide for the summary destruction of glandered animals..... 148

HIDES.

- CHAPTER 66.—An act for the protection of hides and to prevent the destruction thereof, and to punish certain offenses concerning the same..... 150

HIGHWAYS.

- CHAPTER 67.—An act for the establishment of public highways by consent..... 151

HUSBAND AND WIFE.

- CHAPTER 68.—An act granting to the husband or wife power to control and sell real property in certain case.... 152

INSURANCE.

- CHAPTER 69.—An act to revise and amend article XI of the Civil Code, entitled of insurance companies..... 153

JAMES RIVER.

- CHAPTER 70.—An act to preserve the waters of the Dakota or James River and its tributaries, for domestic and drinking purposes... 170

TABLE OF CONTENTS.

VII

JUDICIAL DISTRICTS.

CHAPTER 71.—An act to amend section 8 of chapter 84 of the laws of 1881. 171

JURORS.

CHAPTER 72.—An act to provide for the drawing and summoning of grand and petit jurors in counties organized into civil townships. 172
CHAPTER 73.—An act to amend section one of chapter (86) eighty-six of the general laws of 1881, approved February 11, 1881..... 175
CHAPTER 74.—An act to amend section five (5) chapter nineteen (19) of the Political Code..... 176

LAND DRAINAGE.

CHAPTER 75.—An act to enable the owners of lands to drain and reclaim them; prescribing the powers and duties of county commissioners and other officers in the premises and to provide for the repair and enlargement of such drains..... 177

LAND DRAINAGE BONDS.

CHAPTER 76.—An act to authorize the board of supervisors of the several organized townships in this Territory and those that may be hereafter organized, to issue bonds for the purpose of draining, ditching, grading, or for other purposes..... 190

LEGISLATIVE ASSEMBLY.

CHAPTER 77.—An act authorizing the employment of assistant engrossing and enrolling clerks and appropriating funds for the payment of the same, and to provide for the compensation of other officers for extra service..... 192
CHAPTER 78.—An act to employ assistant sergeant-at-arms for the council and house of representatives, and to provide their compensation..... 193
CHAPTER 79.—An act to amend section 13 of chapter 2 of the Political Code..... 194
CHAPTER 80.—An act to employ clerks for the judiciary committees of the house of representatives and council, and to provide for their compensation..... 195

LICENSES.

CHAPTER 81.—An act authorizing county commissioners to grant license to persons living in counties or territory unorganized, to which said territory may be attached for judicial purposes, to sell intoxicating liquors..... 196

LIENS.

CHAPTER 82.—An act to amend section 300 of the Code of Civil Procedure ... 197
CHAPTER 83.—An act to amend section six hundred and sixty-seven of the Code of Civil Procedure..... 198
CHAPTER 84.—An act to amend section 656 of the Code of Civil Procedure..... 199
CHAPTER 85.—An act giving a lien on certain mares, cows and the offspring thereof for the services of a stallion or bull..... 200

LIBRARY.

- CHAPTER 86.—An act to provide for the insurance of the territorial library and for the purchase of certain books, and to appropriate funds therefor..... 201

OBSCENE LANGUAGE.

- CHAPTER 87.—An act to punish the use of obscene language..... 202

PARDONS.

- CHAPTER 88.—An act to regulate applications for pardons..... 202

PRISONERS.

- CHAPTER 89.—An act to provide for the punishment of convicts for attempting to escape from territorial prisons..... 204

PUBLIC OFFICERS.

- CHAPTER 90.—An act to regulate the keeping of county, township and precinct offices..... 204

RAILROADS.

- CHAPTER 91.—An act to amend thirteen (13) of chapter forty-six (46) of the general laws of the Territory of Dakota for the year 1879. 205

- CHAPTER 92.—An act to amend chapter forty-six of the laws passed in the year 1879..... 206

- CHAPTER 93.—An act to secure manufacturers and owners of railroad equipment and rolling stock in making conditional sales and certain contracts for the lease thereof..... 206

RAPID CREEK.

- CHAPTER 94.—An act to prevent the corruption of the waters of Rapid Creek..... 207

REGISTER OF DEEDS.

- CHAPTER 95.—An act relating to registers of deeds in this Territory. 208

RELIGIOUS CORPORATIONS.

- CHAPTER 96.—An act to amend section 546, article XIV, of the Civil Code, entitled of "Religious Corporations."..... 209

REPORTS OF TERRITORIAL OFFICERS.

- CHAPTER 97.—Joint resolution authorizing the printing of the biennial reports of the Territorial Auditor and Treasurer, and making an appropriation to pay for the same.... 210

REVENUE.

- CHAPTER 98.—An act to amend section twenty-six of chapter twenty-eight of the Political Code of the Revised Codes of 1877..... 211

- CHAPTER 99.—An act to provide for the levy and collection of taxes upon the property of railroad companies in this Territory..... 211

ROADS.

- CHAPTER 100.—An act to vacate the territorial road in section thirty-six in township ninety-four of range fifty-six in Yankton county, and for other purposes..... 214

- CHAPTER 101.—An act to re-locate certain parts of the territorial road through Lake county, D. T., and for other purposes..... 215

TABLE OF CONTENTS.

IX

SALARIES.

CHAPTER 102.—An act to amend section 13 of chapter 39 of the Political Code..... 216
 CHAPTER 103.—An act to amend section 3 of chapter 39 of the Political Code, and section 1 of chapter 133 of the session laws of Dakota Territory of 1881..... 217

SEAT OF GOVERNMENT.

CHAPTER 104.—An act to provide for the location of the seat of government of the Territory of Dakota, and for the erection of public buildings thereat..... 217

SECURITY.

CHAPTER 105.—An act to amend section (197) of article (4) of the Code of Civil Procedure..... 222

SERVICE OF SUMMONS.

CHAPTER 106.—An act to provide for the appointment of an agent to receive service for a non-resident executor, administrator or guardian, and for other purposes..... 223

TAXES.

CHAPTER 107.—An act to amend section 45 of chapter 24 of the Political Code..... 224

TAX COMMISSION.

CHAPTER 108.—Joint resolution providing for the appointment of a tax commission..... 225

TELEGRAMS.

CHAPTER 109.—An act to amend section seven hundred and eighteen (718) of the Penal Code..... 226

TELEPHONES.

CHAPTER 110.—An act to amend chapter 132 of the general laws passed at the fourteenth session of the legislative assembly of this Territory 227

TEXAS AND CHEROKEE CATTLE.

CHAPTER 111.—An act to prohibit the importation of Texas and Cherokee cattle into the Territory of Dakota, and for other purposes..... 227

TOWNSHIP GOVERNMENT.

CHAPTER 112.—An act to provide for the organization of civil townships and the government of the same..... 231
 CHAPTER 113.—An act to amend section 7 of chapter 59 of the laws of 1879..... 281

TOWNSITES.

CHAPTER 114.—An act to amend section 13 of chapter 135 of the laws of 1881, entitled an act prescribing rules and regulations for the execution of the trust arising under the act of Congress, entitled an act for the relief of inhabitants of cities and towns upon the public lands, approved March 2, 1867, and acts amendatory thereto 281

TRESPASS OF ANIMALS.

- CHAPTER 115.—An act to amend section 747, chapter 38, of the Code of Civil Procedure, entitled "Herd Law."..... 284

WHEAT.

- CHAPTER 116.—An act regulating the grading and weighing of wheat and for other purposes in the Territory of Dakota..... 285

SPECIAL LAWS.

COUNTY AUDITOR.

- CHAPTER 1.—An act creating the office of county auditor in certain counties, and defining the duties thereof..... 289

FENCES.

- CHAPTER 2.—An act to amend an act, entitled "An act to establish a fence law in the counties of Pennington, Custer, Lawrence, Mandan and Forsythe."..... 293

FISH IN GOOSE RIVER.

- CHAPTER 3.—An act repealing chapter 48 of the special laws of 1881, entitled "An act to protect the passage of fish in the Goose river." 295

HIGHWAYS.

- CHAPTER 4.—An act to regulate the survey and marking of public highways in the counties of Pennington, Custer and Fall River. 295

INSANE.

- CHAPTER 5.—An act making an appropriation for furnishing and maintaining the Dakota Hospital for the Insane..... 297

- CHAPTER 6.—An act authorizing the issue of bonds to construct a west wing to the Dakota Hospital for the Insane, and other additions and improvements to the same, and to provide for the building and completion thereof..... 298

- CHAPTER 7.—An act authorizing the issue of bonds to construct a Hospital for the Insane at or near the city of Jamestown, Dakota Territory, and to provide for the building of the same..... 301

LAWS.

- CHAPTER 8.—An act to provide for the printing and binding of the Revised Codes of 1877, and the session laws of 1879 and 1881.... 305

LEGALIZING ACTS.

- CHAPTER 9.—An act to legalize the acts of William L. Chadwick as notary public... .. 306

TABLE OF CONTENTS.

XI

CHAPTER 10.—An act to legalize the acts of William R. Goodfellow as notary public of the Territory of Dakota..... 307

CHAPTER 11.—An act to legalize the acts of C. J. B. Harris as notary public of the Territory of Dakota..... 308

CHAPTER 12.—An act to legalize the acts of Edwin T. White as notary public of the Territory of Dakota..... 309

NORMAL SCHOOLS.

CHAPTER 13.—An act to locate and establish a territorial normal school..... 310

CHAPTER 14.—An act appropriating funds for the construction of a normal school building at Madison, Lake county, Dakota Territory, and for other purposes..... 314

CHAPTER 15.—An act authorizing the sale of the tract of land heretofore selected and deeded to the Territory as a site for a normal school at Madison, Lake county, and to accept a different tract for such site..... 315

CHAPTER 16.—An act authorizing the village board of Madison, Lake county, Territory of Dakota, to issue bonds for the purpose of paying for normal school land..... 316

CHAPTER 17.—An act to locate and establish a territorial normal school at Minto, Walsh county, Dakota, and for other purposes. 317

CHAPTER 18.—An act to locate, establish and endow a territorial normal school..... 322

CHAPTER 19.—An act to revive and re-enact chapter one hundred of the session laws of 1881, entitled an act to locate, establish and endow a territorial normal school..... 326

CHAPTER 20.—An act to amend sections one and sixteen, chapter one hundred, of the session laws of 1881, being entitled "An act to locate, establish and endow a territorial normal school."..... 327

CHAPTER 21.—An act making appropriations for the purpose of constructing and furnishing a building for the territorial normal school at Spearfish, D. T., and for other purposes..... 328

CHAPTER 22.—An act to amend an act entitled an act to locate, establish and endow a territorial normal school..... 329

NOTARY PUBLIC.

CHAPTER 23.—An act to legalize the acts of Vale P. Thielman as notary public of the Territory of Dakota.. 330

NAMES OF TOWNS.

CHAPTER 24.—An act to change the name of certain towns in Trail and Walsh counties..... 332

REFORM SCHOOL.

CHAPTER 25.—An act entitled an act to locate and establish a reform school for juvenile offenders, at or near the village of Plankinton, in Aurora county, Dakota Territory..... 332

DEAF AND DUMB.

CHAPTER 26.—An act establishing the Dakota school for deaf mutes, and providing for the government and maintenance of the same. 337

CHAPTER 27.—An act to provide funds for the construction and furnishing of a main building for the Dakota school for deaf mutes, and for other purposes..... 340

PENITENTIARY.

CHAPTER 28.—An act making appropriations for the current and contingent expenses of the territorial penitentiary..... 342

CHAPTER 29.—An act authorizing the issue of bonds for the purpose of making permanent improvements at the territorial penitentiary, and to purchase or lease additional land for a stone quarry. 344

CHAPTER 30.—An act to provide for the building and government of a territorial penitentiary for Dakota at Bismarck..... 346

CHAPTER 31.—An act supplemental and amendatory of an act entitled "An act to provide for the building and government of a territorial penitentiary for Dakota at Bismarck."..... 358

CHAPTER 32.—An act to provide funds for the purpose of building a penitentiary for Dakota Territory at Bismarck, Dakota, and for other purposes..... 360

COUNTY COMMISSIONERS.

CHAPTER 33.—An act providing for the division of counties into five commissioner districts and the appointment and election of commissioners therefor and amending section (15), chapter (21) of the Political Code..... 360

SUMMONS.

CHAPTER 34.—An act relating to the service of summons in justice court in Dakota Territory..... 362

CHAPTER 35.—An act relating to the service of summons in district court of Dakota Territory..... 362

SALARIES.

CHAPTER 36.—An act to fix the salary of superintendent of public schools in and for Cass county, Dakota Territory..... 363

TOWNSHIP ASSESSORS.

CHAPTER 37.—An act to regulate the time for assessing property by township assessors in certain counties, and for other purposes.. 364

UNIVERSITY OF DAKOTA.

CHAPTER 38.—An act to provide for the organization and government of the university of Dakota..... 365

CHAPTER 39.—An act to provide for funds for the purpose of completing the present building of the university of Dakota and for constructing the main building thereof, and for other purposes. 369

UNIVERSITY OF NORTH DAKOTA.

CHAPTER 40.—An act establishing a territorial university at Grand Forks, Dakota..... 371

CHAPTER 41.—An act supplementary to a bill entitled a bill for an act establishing a territorial university at Grand Forks, Dakota Territory, known on the records as council bill No. 101, passed at the fifteenth session of the legislative assembly of the Territory of Dakota..... 376

CHAPTER 42.—An act to appropriate funds for the necessary maintenance of the territorial university of North Dakota, at Grand Forks, D. T..... 377

CHAPTER 43.—An act to provide funds for the construction of a main building for the university of North Dakota..... 378

WEEDS.

CHAPTER 44.—An act to prevent the spread of noxious weeds in the counties of Union, Clay, Lincoln and Cass..... 380

AUTHENTICATION.

DAKOTA TERRITORY, }
Secretary's Office, Yankton. }

I hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills, passed by the Legislative Assembly, at the fifteenth session thereof, begun and held at Yankton, January 9, A. D. 1883, now on file in this office, with the exception of clerical errors appearing enclosed in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the Territory of Dakota, this 15th day of May, A. D. 1883

{ L. S. }

JAMES H. TELLER,
Secretary of the Territory of Dakota.

GENERAL LAWS.

Acknowledgments.

CHAPTER 1.

AN ACT to Amend Section 656 of Article 3 of Chapter 4 of the Civil Code,
Entitled "Proof and Acknowledgment of Instruments."

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

§ 1. That section 656 of article 3 of chapter 4 of the Civil Code, entitled "Proof and acknowledgment of instruments," be and the same is hereby amended by adding at the end of said section the following as subdivision 5: "Or United States circuit or district court commission."

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

Approved, March 9, 1883.

Agricultural College.

CHAPTER 2.

AN ACT to Amend Chapter 3 of the Laws of 1881.

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

§ 1. WHERE LOCATED.] That chapter 3 of the laws of 1881, be amended to read as follows:

“That an Agricultural College for the Territory of Dakota is hereby located and established at the city of Brookings, Brookings county. The building for said college shall be erected and constructed upon the land now owned by the Territory within the limits of said city of Brookings. The purpose of said college shall be the instruction of persons, both male and female, in such branches as may be prescribed by the board of regents hereinafter provided for.”

§ 2. BOARD OF REGENTS.] The said Agricultural College shall be under the direction of a board of regents consisting of six members, who shall be appointed by the Governor, by and with the consent of the Legislative Council. The Governor shall also be *ex-officio* member of said board, and shall be president of the same. The members of said board shall be appointed for the following terms, to-wit: Three for a term of two years and three for a term of four years, as by the Governor designated at the time of appointment. And after the appointment of the first board as herein provided, all appointments except to fill vacancies shall be for a term of four years, and all appointments to fill vacancies shall be for the unexpired term only. The Governor shall have power to fill all vacancies in said board during the interim of the session of the Legislative Council. Said board shall have power to elect a president *pro tempore* in the absence of the Governor, and also shall select a treasurer and secretary from their number, and the treasurer shall execute to the Territory a bond with sufficient sureties, in such sum as the board may direct.

§ 3. OATH.] The Governor shall cause to be issued to each of said regents a commission which shall be under seal of the Territory and attested by the Secretary of the Territory. At the first meeting of said board the members thereof shall take and subscribe an oath to support the constitution of the United States and

the Organic act of the Territory of Dakota, and for the faithful performance of their duties, which oath shall be filed with the Secretary and kept among the records of the board.

§ 4. ORGANIZATION.] Said board shall meet and organize at Brookings, Dakota, on the 1st day of June, A. D. 1884, and make provision for the opening of said school. They shall have full power to employ a president and all necessary professors and assistants, and prescribe the course of study to be pursued in all the departments of said college, the requisites to graduation and the degrees to be conferred thereupon, and to do all things necessary to the successful operation of said school.

§ 5. MONEYS, HOW CONTROLLED.] All money remaining in the Agricultural College fund, after the construction of the building for said Agricultural College, shall be under the control of the board of regents, and the Territorial Treasurer shall pay out of the said fund all warrants which shall have been audited by the said board of regents and signed by the president and secretary of the same.

§ 6. REPORT.] The said board of regents shall make a report to the Legislature at each session thereof, embracing a detailed statement of all their doings, which report shall be printed before or at the date of the meeting of the Legislature.

§ 7. COMPENSATION.] The members of the board of regents shall be entitled to receive the sum of three dollars per day and all necessary traveling expenses while attending to the business of the college, which shall be in full of all compensation they shall receive, which sums shall be paid out of the territorial treasury.

§ 8. MEETINGS.] Said board shall have meetings from time to time as they shall deem advisable, not less than once in each year.

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

Approved, March 9, 1883.

CHAPTER 3.

AGRICULTURAL COLLEGE FUND.

AN ACT to Provide for an Agricultural College Fund for Dakota, and Providing for the Erection and Construction of an Agricultural College at Brookings, Dakota.

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

§ 1. FUNDS, HOW PROVIDED.] For the purpose of providing a fund to erect and construct an Agricultural College the Territorial Treasurer is hereby authorized and empowered and it is made his duty to prepare for issue twenty-five thousand dollars of territorial bonds. Said bonds shall be dated on the day of the execution and delivery thereof, shall be due in twenty years from and after their date and shall be payable at the option of the Territory at any time after ten years from their date. Said bonds shall bear interest at the rate of five per cent. per annum, which interest shall be expressed in coupons attached to said bonds and made payable semi-annually on the first days of July and January of each year. Said bonds shall be drawn in denominations of five hundred dollars each and shall be numbered in the order of their issue, and shall be made payable at the office of the Treasurer of the Territory. Said bonds shall be executed for the Territory and under seal thereof by the Governor and Treasurer, attested by the Secretary and negotiated by the Treasurer.

§ 2. FUND, HOW DESIGNATED.] Said bonds and the money arising from the sale of the same shall be known and designated as the "Dakota Agricultural College Fund," and shall be kept as a separate fund on the books of the Treasurer.

§ 3. BONDS, HOW SOLD.] Said bonds shall be sold in the following manner: Whenever the directors appointed to superintend the building of the Agricultural College as hereinafter provided, shall certify to the Treasurer that contracts for building said Agricultural College have been entered into according to the provisions of this act, it shall be the duty of the said Treasurer to offer for sale by such public advertisement as he shall deem expedient, to the person or persons paying par, or the highest premium above par, the whole amount of bonds as herein provided for.

§ 4. TAX.] For the purpose of the prompt payment of the

principal and interest of the bonds herein provided for, there shall be levied annually by the territorial board of equalization at the time the other taxes are levied, and collected in the same manner as other territorial taxes are collected, such a tax as shall be sufficient to pay such interest and the exchange thereon; and after nine years from the date of said bonds, if no other provision shall have been made for the payment of the principal of the same, the said board of equalization, or any other officer or officers then empowered to perform the duties now performed by said territorial board of equalization, shall levy such sinking fund tax annually as shall be sufficient to retire and pay said bonds at their maturity. It shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year such interest as shall then be due on said bonds, and at the end of ten years if a sinking fund tax is raised as herein provided, to pay, retire and cancel said bonds in the order of their issue with the sinking fund, as fast as the same shall be received in sufficient amounts to pay a bond. The tax and fund herein provided for, for the payment of the principal or interest of said bonds shall not be used for any other purpose.

§ 5. PAYMENT OF INTEREST.] If at any time the Territorial Treasurer shall not have in his hands sufficient funds as hereinbefore provided to pay the interest on said bonds when the same is due, he shall pay such interest out of any funds in the territorial treasury not otherwise appropriated; and all money belonging to the general territorial fund, applied by the said Treasurer to the payment of such interest on said bonds, shall be replaced from the special tax levied to pay the same.

§ 6. DIRECTORS.] The said Agricultural College shall be erected and constructed under the direction and management of three directors, who shall be appointed by the Governor and confirmed by the council. Said directors shall hold their office until the completion of the said Agricultural College and until its acceptance as hereinafter provided, unless sooner removed by the Governor upon specific charges, and in case of a vacancy in the said board of directors such vacancy shall be filled by appointment by the Governor.

§ 7. BOARD OF DIRECTORS.] Each of said directors before entering upon the duties of his office shall give a bond to the Territory of Dakota, with sufficient sureties, conditioned upon the faithful performance of his duties in the penal sum of ten thousand dollars each. Said bond shall be approved by the Territorial Treasurer and put on file in his office.

§ 8. DUTY OF DIRECTORS IN LETTING CONTRACT.] Said directors shall within thirty days after their appointment, notice of which

shall be given them in writing by the Governor, take steps to secure a contract for the erection and construction of a suitable building for an Agricultural College, to be erected and constructed upon the land belonging to the Territory adjacent to the village of Brookings, Dakota, and for that purpose shall advertise for a period of thirty days, in such papers as they shall deem best, for plans and specifications for said college building, which plans and specifications may or may not be accompanied by the price for which the person furnishing the same will perform the work and build said building, but such plans and specifications so furnished shall be without cost to the Territory. From the plans and specifications so furnished, or from any other plans and specifications, the said directors shall, within ten days after the expiration of the time of advertising for said plans and specifications as hereinbefore provided, select a plan for an Agricultural College building. Immediately after said plan shall have been selected, the same, together with the specifications accompanying it, shall be placed on file in the office of the Treasurer of the Territory and be open to inspection for a period of thirty days from the date of filing the same, and during said times bids shall be received from persons desiring to contract for the erection and construction of said building as per the plans and specifications selected by said directors. On the day following the expiration of said time for filing said plans and specifications, the directors shall, in a public manner, open said bids, and within three days thereafter award the contract to the lowest responsible bidder: *Provided, however,* That the directors shall have the right to reject any or all bids, and again advertise for bids as herein provided.

§ 9. TOTAL COST.] The total cost of said Agricultural College building, including fixtures, shall not exceed twenty thousand dollars.

§ 10. BOND OF CONTRACTOR.] The person to whom the contract for the erection and construction of said Agricultural College building is awarded, shall, before entering upon the work, give a bond to the Territory, with sufficient sureties, to be approved by the directors, conditioned for the faithful performance of the contract, in the sum of \$20,000.

§ 11. BUILDING—MATERIAL.] The walls of the said Agricultural College building shall be constructed of good brick or stone, and said building shall be as nearly fire-proof as practicable. The material used in said building shall be examined by the directors, and they shall reject all material which they deem unsuitable.

§ 12. CONTRACT, WHAT TO PROVIDE.] The contract for the erection and construction of said Agricultural College building, shall provide that all material shall be of good quality, that the

work shall be performed in a good, workmanlike manner, and that said building shall be all enclosed on or before the 1st day of November, A. D. 1883, and shall be all completed and ready for acceptance on or before the 1st day of July, A. D. 1884.

§ 13. ACCEPTANCE OF BUILDING.] When the work is all done on said Agricultural College building, the directors, together with the Governor and Territorial Auditor, shall constitute a committee to accept said work and discharge the contractor from further obligation or liability therefor. Said committee, upon receiving written notice from the contractor that said work is all done, shall at once proceed to an examination of and accept or reject the same.

§ 14. PARTIAL PAYMENTS.] After one fourth of the work provided for in the contract shall have been completed, and on application of the contractor the directors shall certify to the Auditor of the Territory the value of the work done on the building at the time, and on such certificate the Auditor shall issue a warrant on the Treasurer for a sum not exceeding 60 per cent. of the value of the work so certified to have been done, which warrant shall be paid out of the Agricultural College fund.

§ 15. CONTRACTOR, HOW PAID.] Upon completion of the work and acceptance of the same as hereinbefore provided, the balance due the contractor under his contract shall be paid by warrant drawn by the Territorial Auditor on the Territorial Treasurer, upon certificate of the directors as provided in cases of the payments mentioned in section 14 of this act, which warrant shall also be paid out of the Agricultural College fund.

§ 16. REPORT OF DIRECTORS.] After the completion of said Agricultural College building and the acceptance of the same as hereinbefore provided, the directors shall make a full and complete report of their work to the Governor, which shall be by him communicated to the Legislature at its next session, with his recommendation, which report may be adopted or rejected by the said Legislature, and until said report is adopted by the Legislature the directors shall not be discharged from liability on their bonds.

§ 17. COMPENSATION OF DIRECTORS.] The said directors shall receive five dollars per day for every day they may be actually employed about the erection of said building, and in addition thereto shall be allowed traveling expenses not to exceed ten cents per mile for each and every mile actually and necessarily traveled in the discharge of their duties: *Provided, however,* That but one of said directors shall be paid for attendance during the progress of the work, except when meetings are held for conference. Each director shall render to the Territorial Auditor a sworn account of the amount due him, and the said sum shall then be paid out of the Agricultural College fund on the warrant of the Auditor.

§ 18. DEBTS, IN CASE OF TERRITORIAL DIVISION.] That part of the Territory of Dakota in which the Agricultural College is situated shall, on the division of the Territory, assume all debts incurred and then existing on account of the erection, construction and equipment of said Agricultural College and Agricultural College farm.

Approved, February 27, 1883.

CHAPTER 4.

AGRICULTURAL COLLEGE—NORTH DAKOTA.

AN ACT to Locate and Establish the North Dakota Territorial Agricultural College.

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

§ 1. ESTABLISHED AT FARGO.] That an Agricultural College to be called and known as the "North Dakota Agricultural College," for the Territory of Dakota, be and is hereby established at Fargo, Cass county, Dakota, the exclusive purpose of which shall be the instruction of persons, both male and female, in such branches as may be prescribed by the board of education herein provided for: *Provided*, That a tract of land not less than forty acres, adjacent to said city of Fargo, be secured and donated to the Territory of Dakota, in fee simple, as a site for a college, within one year from the taking effect of this act, and the Governor of the Territory of Dakota is hereby empowered and it is made his duty to see that a good and sufficient deed be made to the same.

§ 2. TRUSTEES, HOW APPOINTED.] The said Agricultural College shall be under the direction of a board of trustees consisting of five members, four of whom shall be appointed by the Governor, and the fifth member shall be superintendent of public instruction, who shall be *ex-officio* president of said board. The other four members shall hold their office for one, two, three and four years respectively, as by the Governor designated at the time of appointment. The board shall select a treasurer and secretary from their number, and the treasurer shall execute to the Territory a bond with sufficient securities in such sum as the board may direct.

§ 3. MEETINGS.] Said board shall have meetings from time to time as they may deem advisable, not less than once every year, and they shall have power to direct the management of said college in all its departments, to employ teachers and make such rules and regulations as they shall deem necessary; to prescribe a course of study, including a normal department, the requisite to graduation, and the degree to be conferred thereupon.

§ 4. CONTROL OF FUNDS. All funds appropriated for the use and benefit of said college shall be under the direction and control of the board of trustees, and the Treasurer of the Territory shall pay out of the said Agricultural College fund all orders or drafts which shall have been authorized by the board and audited by the president and secretary of the same. Said orders shall be certified to the Territorial Auditor as herein provided, and he shall draw his warrant upon the Territorial Treasurer for the payment of the same.

§ 5. REPORT OF TRUSTEES.] The board of trustees shall render to the Legislature at each session thereof, a full and complete report of its operations, which report shall be prepared and printed before or at the date of the meeting of the Legislature.

§ 6. COMPENSATION.] The members of the board of trustees shall be entitled to receive the sum of three dollars per day and all necessary traveling expenses while attending to the business of the college, which shall be in full of all compensation which they shall receive, and said accounts shall be audited by the board and paid out of the said Agricultural College fund.

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

Approved, March 9, 1883.

Appeals.

CHAPTER 5.

AN ACT to Amend Section Forty-six (46) of Chapter Twenty-one (21) of the Political Code.

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

§ 1. FROM ACTION OF BOARD OF COUNTY COMMISSIONERS.] That section forty-six (46) of chapter twenty-one of the Political Code, be and the same is hereby amended by adding thereto the following words :

“*Provided*, That any district attorney upon the written demand of at least seven taxpayers of the county, shall take an appeal from any action of the board of county commissioners of any county within his district, when said action relates to the interests or affairs of the county at large or any portion thereof, in the name of the proper county, when he deems it to the interest of the county so to do ; and in such case no bond shall be required or given, and upon serving the notice provided for in section forty-seven (47) the county clerk shall proceed the same as if a bond had been filed, and his fees for making the transcript shall be paid as other claims by the county.”

ENDORSED.—Received at Executive Office, March 1st, 1883, at 12 M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Arms.

CHAPTER 6.

AN ACT Ratifying the Action of the Governor in Procuring 1,000 Stand of Arms, and to Appropriate Funds to Pay Freight on and for the Keeping of the same.

Be it Enacted by the Legislative Assembly of Dakota Territory :

§ 1. GOVERNOR'S ACTION APPROVED.] That the action of the Governor in procuring one thousand stand of arms, accoutrements and ammunition for the use of the Territory is hereby ratified and approved.

§ 2. CERTAIN ACCOUNTS TO BE AUDITED.] The Auditor of the Territory is hereby directed to issue his warrant upon the Treasurer for a sufficient amount to pay the freight, storage and other expenses incurred in transporting said arms, accoutrements and ammunition and keeping the same, and the Treasurer is hereby directed to pay such charges approved by the Governor out of any money in the treasury not otherwise appropriated.

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

Approved, March 9, 1883.

Apportionment.

CHAPTER 7.

AN ACT to Amend Chapter Six of the Session Laws of 1881.

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

§ 1. FIRST DISTRICT.] That chapter six of the session laws of 1881, be and the same is hereby amended to read as follows :

“The counties of Clay, Union and Lincoln shall constitute the first council and representative district, and shall be entitled to one member of the council and two members of the House of Representatives, and Union county shall be the senior county.”

§ 2. SECOND DISTRICT.] The counties of Yankton, Hutchinson and Turner shall constitute the second council and representative district and shall be entitled to one member of the council and one member of the House of Representatives, and Yankton county shall be the senior county.

§ 3. THIRD DISTRICT.] The counties of Bon Homme, Charles Mix, Douglas, Aurora, Jerauld, Davison, Brule, Buffalo and Hanson shall constitute the third council and representative district and shall be entitled to one member of the council and two members of the House of Representatives, and Bon Homme county shall be the senior county.

§ 4. FOURTH DISTRICT.] The counties of Minnehaha, McCook and Miner shall constitute the fourth council and representative district and shall be entitled to one member of the council and two members of the House of Representatives, and Minnehaha county shall be the senior county.

§ 5. FIFTH DISTRICT.] The counties of Brookings, Kingsbury, Lake and Moody shall constitute the fifth council and representative district and shall be entitled to one member of the council and two members of the House of Representatives, and Brookings county shall be the senior county.

§ 6. SIXTH DISTRICT.] The counties of Hamlin, Clark, Spink, Beadle, Sanborn, Hand, Faulk, Potter, Sully, Hyde and Hughes 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, and Beadle county shall be the senior county.

§ 7. SEVENTH DISTRICT. The counties of Deuel, Grant, Codington, Day, Brown, Edgerton, McAuley, Inman, McPherson, Edmunds, Campbell, Roberts and Walworth shall constitute the seventh council and representative district and shall be entitled to one member of the council and two members of the House of Representatives, and Codington county shall be the senior county.

§ 8. EIGHTH DISTRICT.] The counties of Lawrence, Pennington, Custer, Butte and Fall River shall constitute the eighth council and representative district and shall be entitled to one member of the council and three members of the House of Representatives, and Lawrence county shall be the senior county.

§ 9. NINTH DISTRICT.] The counties of Barnes, Stutsman, Griggs, Foster, Wells, Kidder, Burleigh, Sheridan, Stevens, Renville, Montraille, Walette, Howard, Williams, Mercer, Morton, Stark, Billings, Emmons, Logan, Benson, DeSmet, Rollette, Bottineau and McHenry shall constitute the ninth council and representative district and shall be entitled to one member of the council and two members of the House of Representatives, and Stutsman county shall be the senior county.

§ 10. TENTH DISTRICT.] The counties of Cass, Richland, Ransom, Sargent, LaMoure and Dickey shall constitute the tenth council and representative district and shall be entitled to one member of the council and two members of the House of Representatives, and Cass county shall be the senior county.

§ 11. ELEVENTH DISTRICT.] The counties of Grand Forks, Nelson, Traill and Steele shall constitute the eleventh council and representative district and shall be entitled to one member of the council and two members of the House of Representatives, and Grand Forks county shall be the senior county.

§ 12. TWELFTH DISTRICT.] The counties of Pembina, Nicketus, Cavilier, Walsh, Harvey and Ramsey shall constitute the twelfth council and representative district and shall be entitled to one member of the council and two members of the House of Representatives, and Pembina county shall be the senior county.

§ 13. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 9, 1883.

Attorney General.

CHAPTER 8.

AN ACT to Create the Office of Attorney General, Provide for his Appointment and to Define his Powers and Duties, and for other Purposes.

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

§ 1. OFFICE CREATED—DUTIES OF ATTORNEY GENERAL.] There shall be in and for the Territory of Dakota an Attorney General, who shall be appointed by the Governor, by and with the advice and consent of the Legislative Council, who shall hold his office two years and until his successor is appointed and qualified. He shall be a member of the Territorial Board of Equalization. He shall appear for the Territory and prosecute and defend all actions and proceedings, civil or criminal, in the Supreme Court in which the Territory shall be interested as a party, and shall also, when requested by the Governor, or either branch of the Legislature, appear for the Territory and prosecute or defend in any other court or before any officer in any cause or matter, civil or criminal, in which the Territory may be a party or interested, and shall attend to all civil cases remanded by the Supreme Court to any District Court in which the Territory is a party or interested.

§ 2. TO PROSECUTE OFFICIAL BONDS.] It shall be the duty of the Attorney General at the request of the Governor, Auditor or Treasurer to prosecute any official bond or any contract in which the Territory is interested upon a breach thereof, and to prosecute or defend for the Territory all actions, civil or criminal, relating to any matter connected with either of their departments.

§ 3. TO ADVISE DISTRICT ATTORNEYS.] The Attorney General shall consult with and advise the District Attorneys when requested by them in all matters pertaining to the duties of their office. He shall also when requested give his opinion in writing without fee, upon all questions of law submitted to him by the Legislature, or either branch thereof, or by the Governor, Auditor, Treasurer or Superintendent of Public Instruction.

§ 4. SHALL PREPARE CERTAIN WRITINGS.] Whenever requested by the Territorial Auditor, Treasurer or Superintendent of Public Instruction, he shall prepare proper drafts for contracts, forms and other writings, which may be wanted for the use of the Territory ;

and he shall report to the Legislature, or either branch thereof, whenever requested, upon any business relating to the duties of his office.

§ 5. **MONEYS RECEIVED, HOW DISPOSED OF.]** That all moneys received by the Attorney General belonging to the Territory shall, immediately upon the receipt thereof, be paid by him into the territorial treasury.

§ 6. **SHALL KEEP CERTAIN BOOKS.]** The Attorney General shall keep in proper books, to be provided for that purpose, at the expense of the Territory, a register of all actions and demands prosecuted or defended by him in behalf of the Territory, and of all proceedings had in relation thereto, and shall deliver the same to his successor in office.

§ 7. **OATH AND BOND.]** Before the Attorney General enters upon the duties of his office he shall take and subscribe the oath required by law, and shall execute to the Territory a bond, with not less than three (3) sureties, in the sum of three thousand dollars, to be approved by the Governor, conditioned for the faithful performance of his duties as Attorney General and also as member of the Territorial Board of Equalization, which bond and oath shall be filed in the office of the Executive, and such bond shall be renewed in larger amounts whenever requested by the Legislature.

§ 8. **SALARY.]** The Attorney General shall receive a salary of two thousand five hundred dollars per annum and all necessary traveling expenses incurred while journeying in the performance of the said office, to be paid in quarterly payments, which shall be in full for all his services both as Attorney General and as a member of the Territorial Board of Equalization, and there is hereby appropriated out of any money in the treasury not otherwise appropriated, a sum of money sufficient to pay such salary and expenses :

Provided, That no warrant upon the Treasurer for such expenses be drawn by the Auditor until an itemized statement of such expenses, verified by oath, shall be filed with the Auditor.

§ 9. This act shall take effect from and after its passage and approval.

Approved, March 9, 1883.

Capital Punishment.

CHAPTER 9.

AN ACT to Amend Section Two Hundred and Forty nine (249), Chapter Seventeen (17) of the Penal Code

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

§ 1. PENALTY FOR MURDER.] That section two hundred and forty-nine (249) of chapter seventeen (17) of the Penal Code, be amended to read as follows :

“Every person convicted of murder shall suffer death, or imprisonment at hard labor in the Territorial Penitentiary for life, at the discretion of the jury.”

§ 2. JURY TO DESIGNATE PENALTY.] Upon trial of an indictment for murder, the jury, if they find the defendant guilty, must designate in their verdict whether he shall be punished by death or imprisonment for life at hard labor, and the judgment of the court shall be in accordance therewith.

§ 3. All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

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

Approved, February 21, 1883.

Corporate Stock.

CHAPTER 10.

AN ACT to Amend Section Four Hundred (400) of the Civil Code, Entitled
"Corporations"

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

§ 1. CORPORATION HOLDING STOCK.] That section 400 of the Civil Code, be and the same is hereby amended by adding thereto the following: "Or by the unanimous consent in writing of all its stockholders in such manner and for such price or consideration as the said stockholders may unanimously decide upon."

ENDORSED.—Received at Executive Office, Feb. 24th, 1883, at 3 P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Costs in Civil Actions.

CHAPTER 11.

AN ACT Relating to Costs in Civil Actions.

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

§ 1. AMOUNT OF COSTS ALLOWED.] When allowed, the costs mentioned in section three hundred and seventy-seven of the Code of Civil Procedure, shall be as follows:

1. To the plaintiff, for all proceedings before notice of trial in

actions arising on contract for the recovery of money only, five dollars; in other actions, ten dollars; for all proceedings after notice of and before trial, three dollars; for each additional defendant served with process, not exceeding ten, one dollar.

2. To the defendant, for all proceedings before notice of trial, five dollars; and for all proceedings after notice of and before trial, three dollars.

3. To either party, when a new trial shall be had, for all proceedings after granting of and before such new trial, five dollars; for attending upon and taking the deposition of a witness conditionally or attending to perpetuate his testimony, two dollars; for drawing interrogatories to annex to a commission for the taking of testimony, two dollars; for making and serving a case, or case containing exceptions, five dollars, except that when the case shall necessarily contain more than fifty folios, there shall be allowed two dollars in addition thereto.

4. For every trial of an issue of fact, five dollars.

5. To either party, on appeal to the Supreme Court, before argument, five dollars; for argument, fifteen dollars; and when a judgment is affirmed, the court may, in its discretion, also award damages for the delay, not exceeding ten per cent. on the amount of the judgment.

6. To either party, for every term not exceeding five, at which the cause is necessarily on the calendar, and is not tried, or is postponed by order of the court, three dollars; and for every term not exceeding five, excluding the term at which the cause is argued in the Supreme Court, five dollars.

§ 2. WHEN THIS ACT NOT TO APPLY.] That none of the costs provided in this act shall be allowed to any plaintiff in a judgment upon a written contract for the payment of attorney's fees, executed before the passage of this act.

§ 3. REPEAL.] Section 378 of chapter fifteen of the Code of Civil Procedure, be and the same is hereby repealed.

§ 4. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 2, 1883.

Counties.

CHAPTER 12.

BENSON, DE SMET AND RAMSEY.

AN ACT Creating the County of Benson, Defining its Boundaries, and Defining the Boundaries of the Counties of De Smet and Ramsey.

Be it Enacted by the Legislative Assembly of Dakota Territory:

§ 1. BOUNDARIES OF BENSON COUNTY.] That all that portion of the counties of Ramsey and De Smet, described as follows, viz:

Beginning at the southeast corner of township one hundred and fifty-one (151) north, range sixty-six (66) west; thence running north on range line between ranges sixty-five (65) and sixty-six (66) to the thirteenth (13th) standard parallel; thence east on said thirteenth (13th) standard parallel to the section line running between sections thirty-two (32) and thirty-three (33), in township one hundred and fifty-three (153) north, range sixty-five (65) west; thence north on the section line running between sections thirty-two (32), thirty-three (33), twenty-eight (28), twenty-nine (29), twenty (20), twenty-one (21), sixteen (16), seventeen (17), eight (8), nine (9), four (4) and five (5) respectively in townships one hundred and fifty-three (153) and one hundred and fifty-four (154) north, range sixty-five (65), west to the township line running between townships one hundred and fifty-four (154) and one hundred and fifty-five (155); thence west on said township line to the range line running between ranges sixty-five (65) and sixty-six (66); thence north on said range line to a point where the said range line intersects the fourteenth (14th) standard parallel; thence west on said standard parallel to a point where it intersects the range line running between ranges sixty-nine (69) and seventy (70); thence south on the range line running between ranges sixty-nine (69) and seventy (70) to the southwest corner of township one hundred and fifty-three (153) north, range sixty-nine (69) west; thence east on the thirteenth (13th) standard parallel to the northeast corner of township one hundred and fifty-two (152) north, range seventy (70) west; thence south on the range line running between ranges seventy (70) and sixty-nine (69) to the township line running between townships one hundred and fifty (150) and one hundred and fifty-one (151); thence east

on said township line to the place of beginning, be and the same is hereby designated, made and constituted the county of Benson.

§ 2. WHERE ATTACHED.] That the county of Benson is hereby attached to the county of Grand Forks for judicial purposes.

§ 3. RAMSEY COUNTY.] That all that territory described as follows, viz:

Commencing at the southeast corner of township one hundred and fifty-one (151), north of range sixty-two (62) west; thence running north on the range line between ranges sixty-one (61) and sixty-two (62) to the northeast corner of township one hundred and fifty-two (152), north of range sixty-two (62) west on the thirteenth (13th) standard parallel; thence east on the 13th standard parallel to the southeast corner of township one hundred and fifty-three (153) north of range 61 west; thence north on the range line between ranges 60 and 61 to the 14th standard parallel; thence west on the 14th standard parallel to the northwest corner of township one hundred and fifty-six north of range 65; thence south on the range line between ranges 65 and 66 to the southeast corner of township one hundred and fifty-five north of range 65 west; thence east on the township line between townships 154 and 155 until it intersects the section line between sections 4 and 5, in township 154, range 65; thence south on said section line through townships 154 and 153 until it intersects the 13th standard parallel; thence west on said 13th standard parallel to the northwest corner of township 152, range 65; thence south on the range line between ranges 65 and 66 to the southwest corner of township 151, range 65; thence east on the township line between townships 150 and 151 to the place of beginning, be and the same is hereby constituted and declared to be and remain the county of Ramsey.

§ 4. DE SMET COUNTY.] That all that territory described as follows, viz:

Beginning at the southeast corner of township 151, range 70 west; thence running north on the range line between ranges sixty-nine (69) and seventy (70) to a point where said range line intersects the fourteenth (14th) standard parallel; thence west on said fourteenth (14th) parallel to the northwest corner of township one hundred and fifty-six (156) north, range seventy-three (73) west; thence south on range line between ranges seventy-three (73) and seventy-four (74) to the southwest corner of township one hundred and fifty-one (151) north, range seventy-three; thence east on township line between townships one hundred and fifty (150) and one hundred and fifty-one (151) to the place of beginning, be and the same shall constitute and remain the county of De Smet.

§ 5. All acts or parts of acts inconsistent herewith are hereby repealed.

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

Approved, March 9, 1883.

CHAPTER 13.

BROWN, McCAULEY, EDGERTON AND INMAN COUNTIES.

AN ACT Creating the Counties of McCauley and Edgerton and Inman and Defining their Boundaries, and Defining the Boundaries of the County of Brown and for other Purposes.

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

§ 1. BOUNDARIES OF Mc CAULEY COUNTY.] That all that district of country included within the following boundary lines, to-wit :

Beginning at the northeast corner of township 124, north of range 63 west ; thence west between townships 124 and 125 to the northwest corner of township 124 north, of range 67 west ; thence south between ranges 67 and 68 to the southwest corner of township 121, north of range 67 west ; thence east between townships 120 and 121 north, to the southeast corner of township 121, north of range 63 west ; thence north between ranges 62 and 63 to the point of beginning, shall be and the same is hereby declared to be and is constituted the county of McCauley.

§ 2. EDGERTON.] That all that district of country included within the following boundary lines, to-wit :

Beginning at the northeast corner of township 124 north, of range 63 west ; thence east between townships 124 and 125 to the northeast corner of township 124 north, of range 59 west ; thence south between ranges 58 and 59 to the southeast corner of township 121 north, of range 59 west ; thence west between townships 120 and 121 to the southwest corner of township 121 north, of range 62 west ; thence north between ranges 62 and 63 to the point of beginning, shall be and the same is hereby declared to be and is constituted the county of Edgerton.

§ 3. INMAN.] That all that district of country included within the following boundary lines, to-wit :

Beginning at the northeast corner of township 124, north of range 63 west; thence west between townships 124 and 125, north to the southwest corner of township 125, north of range 67 west; thence north between ranges 67 and 68, west to the northwest corner of township 128, north of range 67 west; thence east between townships 128 and 129, north to the northeast corner of township 128 north of range 63 west; thence south between ranges 62 and 63 west, to the point of beginning, shall be and is hereby declared to be and is constituted the county of Inman.

§ 4. BROWN.] That the boundaries of Brown county be and are hereby changed, modified and fixed as follows, to-wit:

Beginning at the northeast corner of township 124, north of range 63 west; thence east between townships 124 and 125, north to the southeast corner of township 125, north of range 59 west; thence north between ranges 58 and 59, west to the northeast corner of township 128, north of range 59 west; thence west between townships 128 and 129, north to the northwest corner of township 128, north of range 62 west; thence south between ranges 62 and 63, west to the point of beginning.

§ 5. QUESTION TO BE SUBMITTED.] That the establishment and creation of the foregoing counties as set forth in the preceding sections of this act shall be submitted to the legal voters of the several counties of McCauley, Edgerton, Inman and Brown as constituted and defined by this act at a special election to be held as provided in the next section.

§ 6. SPECIAL ELECTION.] That a special election shall be held in the counties of Brown, Inman, Edgerton and McCauley as constituted in the preceding sections of this act, on the first Tuesday in May, A. D. 1883. That it shall be the duty of the sheriff of Brown county, as heretofore organized, to give thirty days notice of such election by publication for four successive weeks in two weekly newspapers printed in said county. That the election precincts, polling places and judges of election at such special election shall be the same as at the last general election in Brown county;

Provided, If any of such judges shall not be present at the opening of the polls, judges may be chosen as provided by law at general elections;

And, provided further, That any elector residing in any of the foregoing counties in territory not heretofore included in Brown county may vote at such election at such polling place in Brown county (as heretofore organized) as may be nearest to his place of residence. That said election, except as herein otherwise expressly provided shall be governed in all things as provided by law for general elections. The ballots used at said election shall be as near as may be in one of the following forms: "For the division of

Brown county, Yes," or "For the division of Brown county, No." If a majority of the legal votes cast at said election shall be in favor of division of Brown county, then said counties of McCauley Edgerton, Inman and Brown shall be established and constituted as provided in the preceding sections of this act.

§ 7. CANVASS OF VOTE.] That the county clerk, judge of the probate court and county treasurer of Brown county, shall meet at the office of the said county clerk on the first Monday after said election and canvass the vote cast at said special election. That the judges of election of the several precincts shall make their returns in time to enable said canvassers to canvass the vote cast at said election on said first Monday after said election. That said canvassers shall canvass the vote cast at said election as provided by law, and they shall make three certified abstracts of the votes cast in the several precincts at said election, and they shall immediately forward one of said abstracts to the Governor of the Territory of Dakota, and one of said abstracts to the Secretary of said Territory, and the Governor and Secretary of said Territory shall proceed to canvass the vote cast at said election as soon as they shall receive said abstracts. And if a majority of the votes cast at said election shall be in favor of the division of Brown county; then it shall be the duty of the Governor within twenty days to appoint commissioners, residing in said counties, for the counties of McCauley, Edgerton and Inman. That said commissioners shall proceed to organize said counties as provided by law for the organization of new counties.

§ 8. LIABILITY OF NEW COUNTIES.] That the counties of McCauley, Inman and Edgerton, respectively, are hereby declared to be liable for such proportion of the legal indebtedness of the county of Brown, existing at the time of division, as the assessed valuation for the year 1882 of the property taken from the county of Brown, in each of said counties, bears to the whole assessed valuation of said Brown county for the year 1882; and the cash assets in the treasury of Brown county at the time of division shall be turned over to the treasurers of the counties of Inman, Edgerton, Brown and McCauley, respectively, in the same proportion as the assessed valuation of each of said counties as above provided, bears to the whole assessed valuation of Brown county before division, and it is made the duty of the treasurer of Brown county to turn over money on hand as above provided. That it shall be the duty of the county commissioners of the counties of Inman, Edgerton and McCauley to levy a tax to meet any liability to Brown county which may exist as above provided.

§ 9. RECORDS—TRANSCRIBING.] That the registers of deeds and clerks of court of the counties of Inman, Edgerton and McCauley,

respectively, shall without unnecessary delay transcribe all the records of deeds, mortgages and other instruments and judgments and mechanics liens, and other records from the books of said offices, respectively, in the counties of Brown and Day pertaining to their respective counties, and such transcribed records shall have the same force and effect for all purposes as original records, and said registers of deeds and clerks of court shall be paid by their respective counties for transcribing such records, such fees as are provided by law for recording original instruments of the same character.

§ 10. PRESENT OFFICIALS TO CONTINUE.] The various officers of the county of Brown now holding office shall continue therein until the end of their terms as provided by law, except in case such officers reside without the boundaries of said Brown county as herein defined; any vacancy occasioned by the change of boundary as herein provided, may be filled by appointment as in other vacancies.

§ 11. That all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

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

Approved, February 27, 1883.

CHAPTER 14.

BRULE COUNTY.

AN ACT Defining the Boundaries of Brule County.

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

§ 1. BOUNDARIES OF BRULE COUNTY.] That the southern tier of townships of the county of Buffalo as now defined are hereby detached from said county of Buffalo, and the same are hereby attached to and made a part of the county of Brule, and the boundaries of the said county of Brule are hereby declared to be as follows, to-wit :

Commencing at the northeast corner of township number one hundred and five (105) north, range number sixty-seven (67) west,

of the fifth (5th) principal meridian, running thence west on the north line of said tier of townships number one hundred and five (105) to the center of the main channel of the Missouri river; thence down the center of the main channel of said Missouri river to the north line of township number one hundred (100); thence east along said township line to the southeast corner of township number one hundred and one (101), range number sixty-seven (67); thence north along the east line of said range to the place of beginning; and the jurisdiction of said county of Brule shall, upon the taking effect of this act, extend over all the district embraced in the above boundaries.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved, March 9, 1883.

CHAPTER 15.

BUTTE COUNTY.

AN ACT to Create and Define the Boundaries of the County of Butte, and for other Purposes.

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

§ 1. BOUNDARIES.] All that district of country included within the following boundary lines shall be and the same is hereby constituted and declared the county of Butte, viz :

Beginning at a point where the boundary line dividing the Territory of Dakota and the Territory of Wyoming intersects the Redwater creek, running thence easterly down said creek to the township line between townships seven and eight, north of Black Hills base line; thence east along said township line to the one hundred and third meridian of longitude west of Greenwich; thence north along said one hundred and third meridian to its intersection with the forty-fifth parallel of north latitude; thence west along said parallel to the boundary line dividing the Territory of Dakota and the Territory of Wyoming; thence south along said boundary line to the place of beginning.

1883.—4

§ 2. LIABILITY FOR INDEBTEDNESS.] This act shall not release that portion of country segregated from Lawrence county of its just and equitable proportion of the bonded and floating indebtedness of said Lawrence county at the date of the passage of this bill, and that said county of Butte shall assume and pay said indebtedness.

§ 3. DUTY OF COMMISSIONERS TO PROVIDE FOR INDEBTEDNESS.] That as soon as the county commissioners of said Butte county shall be appointed and qualified, it shall be their duty to meet with the commissioners of Lawrence county in the city of Deadwood, and the said commissioners of the two counties shall constitute a joint board of commissioners, whose duty it shall be to ascertain the amount of the bonded and floating indebtedness to be assumed by the said county of Butte as provided in section two of this act, the assessment of Lawrence county for the year eighteen hundred and eighty-two, being taken as the basis of valuation; and when so ascertained, the commissioners of the said county of Butte shall and are hereby authorized to execute and deliver to the board of county commissioners of Lawrence county, for such share of the bonded indebtedness so ascertained, bonds of Butte county, with interest coupons attached, bearing the same rate of interest, due and payable at the same time as the bonds of Lawrence county, against which they are to be so issued. And in payment of its share of the floating indebtedness so ascertained, the said county of Butte shall, by its county commissioners, execute and deliver to the county commissioners of Lawrence county, bonds of the county of Butte to the amount of such share of the floating indebtedness so ascertained, said bonds to draw seven per cent. interest per annum, the interest to be paid annually; the first years interest to be paid in one year from the passage and approval of this act, and annually thereafter; the principal of said bonds to be paid in not less than five nor more than twenty years.

§ 4. BONDS.] The bonds to be issued under and by virtue of this act shall be printed upon bond paper, signed by the chairman of the board of county commissioners of said Butte county, and attested by the official seal and signature of the county clerk thereof, and shall be numbered consecutively in their respective series and recorded by the county clerk in a book kept for that purpose.

§ 5. DELINQUENT TAXES.] All unpaid and delinquent taxes for the year eighteen hundred and eighty-two, and previous years, assessed against that portion of Lawrence county which by this bill becomes a part of Butte county, shall belong to and be collected by the county of Butte.

§ 6. SPECIAL ELECTION TO VOTE UPON DIVISION.] *Provided, how-*

ever, That the portion of Lawrence county hereby proposed to be segregated shall not be cut off unless the question of segregation shall be first submitted to a vote of the people living in said portion proposed to be cut off, at a special election called for that purpose, by giving at least fifteen days notice of the same by posting such notices in each election precinct as already established of said part proposed to be cut off. And it is hereby made the duty of the county commissioners of Lawrence county to call said election within sixty days after the passage and approval of this act. And in case of a neglect or refusal of said commissioners to call said election, then it shall be the duty of the county clerk of Lawrence county to call said election. In case a majority of the legal voters of said portion voting shall vote in favor of said segregation, then this act shall be of full force and effect. It shall be the duty of the said board of county commissioners of Lawrence county to meet at the county seat of Lawrence county within ten days after said election, to canvass said vote; and in case of a refusal of said board to canvass said vote within the ten days, then the county clerk is hereby authorized and empowered to appoint three freeholders of Lawrence county to act as a board of canvassers, who shall canvass the vote as is now provided by law. The form of the ballots shall be "For division, Yes; "For division, No." All expenses of said election shall be paid by that portion of Lawrence county attached to Butte county by the provisions of this bill.

§ 7. All acts and parts of acts in conflict with this act are hereby repealed.

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

ENDORSED.—Received at Executive Office, March 2d, 1883, at 5:30 P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

CHAPTER 16.

DELANO, SCOBEEY, PYATT, JACKSON, STERLING AND NOWLIN
COUNTIES.

AN ACT to Create the counties of Delano, Scoby, Pyatt, Jackson, Sterling and Nowlin and define the boundaries of each.

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

§ 1. BOUNDARIES OF DELANO COUNTY.] All that district of country in Dakota included within the following boundaries, to-wit :

Bounded on the north by the 45th parallel of north latitude, and on the south by the second Black Hills Standard parallel north projected, and included between the 103d degree of longitude on the west, and the 102d degree of longitude on the east, is constituted and declared the county of Delano.

§ 2. SCOBEEY.] All that district of country in Dakota, included within the following boundaries to-wit :

Bounded on the north by the second Black Hills Standard parallel north projected, on the south by the Belle Fourche and Cheyenne River, and included between the 103d degree of longitude, on the west and the 102d degree of longitude, on the east, is constituted and declared the county of "Scobey."

§ 3. PYATT.] All that district of country in Dakota, included within the following boundaries, to-wit :

Bounded on the north by the 45th parallel of north latitude, on the south by the second Black Hills Standard parallel north projected, and included between the 102d degree of longitude on the west, and the west bank of the Missouri River at low water mark on the east, is constituted and declared the county of "Pyatt."

§ 4. STERLING.] All that district of country in Dakota included within the following boundaries, to-wit :

Bounded on the north by the second Black Hills Standard parallel north projected, on the south by the first Black Hills Standard parallel north projected, and included between the 102d degree of longitude on the west, and the 101st degree of longitude on the east is constituted and declared the county of "Sterling-"

§ 5. NOWLIN.] All that district of country in Dakota, included within the following boundaries, to wit :

Bounded on the north by the first Black Hills Standard par-

allel north projected, on the south by the 44th parallel of north latitude, and included between the 102d degree of longitude on the west, and the 101st degree of longitude on the east, is constituted and declared the county of "Nowlin."

§ 6. JACKSON.] All that district of country in Dakota included within the following boundaries, to-wit:

Bounded on the north by the 44th parallel of north latitude, on the south by the first Black Hills Standard parallel south projected, and included between the 102d degree of longitude on the west, and the 101st degree of longitude on the east, is constituted and declared the county of "Jackson."

§ 7. CERTAIN COUNTIES ATTACHED TO LAWRENCE.] That the counties of Delano, Scoby, Pyatt, and Sterling are attached to the county of Lawrence for judicial and revenue purposes until such time as they may be organized as provided by law.

§ 8. CERTAIN COUNTIES ATTACHED TO PENNINGTON.] The counties of Zeibach, Nowlin and Jackson are attached to the county of Pennington for judicial and revenue purposes until such time as said counties may be organized as provided by law.

§ 9. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

§ 10. This act shall take effect from and after its passage and approval.

Approved, March 8, 1883

CHAPTER 17.

DEWEY COUNTY.

AN ACT to change the name of Rusk County and to create the county of Dewey.

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

§ 1. RUSK COUNTY CHANGED TO DEWEY.] That the district of country known and designated as the county of Rusk, in the Territory of Dakota, be and the same is hereby changed and the same shall be known as and constitute the county of Dewey.

§ 2. That this act shall take effect and be in force from and after its passage and approval.

Approved, March 9, 1883.

CHAPTER 18.

FALL RIVER COUNTY.

AN ACT Establishing the County of Fall River and defining the Boundaries thereof.

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

§ 1. BOUNDARIES OF FALL RIVER COUNTY.]—That the county of of Fall River is hereby established and constituted to embrace all that portion or district of country bounded and described as follow-, viz :

Commencing at a point where the township line between townships number six (6), and seven (7), south of the Black Hills Meridian intersects the division line between the Territories of Dakota and Wyoming, running thence east along said township line to a point where said line intersects the one hundred and third (103) parallel [Meridian] of longitude west from Greenwich, thence south on said parallel [Meridian] of longitude to the southern boundary line of the Territory of Dakota, thence west along said line to the eastern boundary line of the Territory of Wyoming, thence north to the place of beginning.

Provided, however, That before this act shall take effect and be in force, the matter of the establishment of the proposed County of Fall River, shall first be submitted to a vote of the legal voters residing within the Territory embraced within the boundaries of the proposed county of Fall River, at a special election hereby authorized to be held on Tuesday the third day of April, A. D. 1883, for that purpose, and at said special election there shall be printed on the ballots "for establishment of Fall River County", or "against establishment of Fall River County."

§ 2. ELECTION TO VOTE UPON DIVISION.] The legal voters at the polls at such election as provided in the preceding section, shall on the said 3d day of April, A. D. 1883, choose the judges and clerks of election, and said election shall in all other respects be conducted as is provided by law governing elections, which said election shall be held at the voting precincts now established within the boundaries of the proposed County of Fall River, and the judges and clerks of election so chosen, shall canvass the vote and forward the poll book as provided by law, directed to the County Clerk of Custer County, within three (3) days after the closing of the polls; and the other poll book, together with the ballots and

ballot boxes deposited with the chairman of the board of County Commissioners of the County of Custer, and thereupon within fifteen (15) days after the close of said election, or as soon as the returns are received, the returns shall be opened and abstracts made thereof as is now provided by law, and if a majority of the votes cast at such election shall be in favor of the establishment of the said county of Fall River, then this act shall be in force and take effect on the 15th day of May, A. D. 1883, and if a majority of the votes cast at such election shall be against the establishment of said County of Fall River, then this act shall have no effect.

§ 3. MAJORITY VOTE TO DETERMINE.] If it shall be found that a majority of the votes cast at such election shall be "for establishment of Fall River County," then said county shall be organized as is now or may be hereafter provided by law.

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

Approved, March 6, 1883.

CHAPTER 19.

FAULK AND POTTER COUNTIES.

AN ACT Defining and Establishing the Boundaries of Faulk and Potter Counties.

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

§ 1. BOUNDARIES OF FAULK COUNTY.] That the boundaries of Faulk county are hereby defined and declared to be as follows, to-wit :

Beginning at the southeast corner of township number 117 of range number 66; thence north along the range line between ranges 65 and 66 to the northeast corner of township number 120 of range number 66; thence west along the township line between townships 120 and 121 to the northwest corner of townships number 120 of range 72; thence south along the range line between ranges number 72 and 73 to the southwest corner of township number 117 of range number 72; thence east along the township line between township number 116 and 117 to the place of beginning.

§ 2. POTTER COUNTY.] That the boundaries of Potter county are hereby defined and declared to be as follows, to-wit:

Beginning at the southeast corner of township number 117 of range number 73; thence north along the range line between ranges number 72 and 73 to the northeast corner of township number 120 of range number 73; thence west along the township line between townships number 120 and 121 to the center of the channel of the Missouri river; thence down the channel of the Missouri river to the intersection of the township line between townships number 116 and 117, and thence east along the line between townships number 116 and 117 to the place of beginning.

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

Approved, March 8, 1883.

CHAPTER 20.

FOSTER COUNTY.

AN ACT Defining the Boundaries of the County of Foster.

Be it Enacted by the Legislative Assembly of Dakota Territory:

§ 1. BOUNDARIES OF FOSTER COUNTY.] That all of that district of country included within the following boundary lines shall be and the same is hereby constituted and declared the county of Foster, viz:

Beginning at the southeast corner of township one hundred and forty-five (145) north, of range No. sixty-two (62) west; and running thence, west and along the line between townships one hundred and forty-five (145), and one hundred and forty-four (144) to the southwest corner of township one hundred and forty-five (145) north, of range sixty-eight (68) west; thence north and along the line between ranges sixty-eight (68) and sixty-nine (69) to the northwest corner of township one hundred and fifty (150) north, of range sixty-eight (68) west; thence east and along the line between township one hundred and fifty (150) and township one hundred fifty-one (151) to the northeast corner of town-

ship one hundred and fifty (150) north, of range sixty-one (61) west; thence south and along the line between ranges sixty-one (61) and sixty (60) to the southeast corner of township one hundred and forty-nine (149) north, of range sixty-one (61) west; thence west and along the line between townships one hundred and forty-eight (148) and one hundred forty-nine (149) north, to the southeast corner of townships one hundred and forty-nine, (149) north, of range sixty-two (62) west; thence south and along the line between ranges sixty-two (62) and sixty-one (61) to the place of beginning; and the jurisdiction of said county of Foster shall upon the taking effect of this act extend over all the district embraced in the above boundaries.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved, February 14th, 1883.

CHAPTER 21.

HYDE COUNTY.

AN ACT Defining the Boundaries of the County of Hyde.

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

§ 1. BOUNDARIES OF HYDE COUNTY.] That all that portion of the Territory of Dakota included within the following boundary line, to-wit:

Commencing at the southeast corner of township number one hundred and nine (109) north, of range number seventy-one (71) west; running thence north on the range line between ranges numbered seventy (70) and seventy-one (71) until it intersects the third (3rd) standard parallel, thence west on said third (3rd) standard parallel to the southeast corner of township number one hundred and thirteen (113) north, of range number seventy-one (71) west; thence north on the range line between ranges numbered seventy (70) and seventy-one (71) until it intersects the fourth (4th) standard parallel, thence west on the fourth

standard parallel to the northwest corner of township number one hundred and sixteen (116) north, of range number seventy-three (73) west; thence south on the range line between ranges numbered seventy-three (73) and seventy-four (74) until it intersects the third (3rd) standard parallel; thence east on said third (3rd) standard parallel to the northwest corner of township number one hundred and twelve (112) north, of range number seventy-three (73) west; thence south on the range line between ranges numbered seventy-three (73) and seventy-four (74) to the main channel of the Missouri river; thence down the main channel of said river to the point of its intersection with the second (2nd) standard parallel to the southeast corner of township number one hundred and nine (109) north, of range number seventy-one (71) west, the same being the place of beginning, be, and the same is hereby made and constituted the county of Hyde.

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

Approved, February 27, 1883.

CHAPTER 22.

HARVEY COUNTY.

AN ACT Creating the County of Harvey and Defining its Boundaries, and for other Purposes.

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

§ 1. BOUNDARIES OF HARVEY COUNTY.] That all that district of country included within the following boundary lines, to-wit:

Beginning at the southeast corner of township one hundred and sixty (160) north, range fifty-seven (57) west; thence running north on the range line between ranges fifty-seven (57) and ranges fifty-six (56) until it intersects the fifteenth (15) standard parallel; thence west on said standard parallel to the southeast corner of township one hundred and sixty one (161) north, range fifty-seven west; thence running north on the range line between ranges fifty-seven (57) and fifty-six (56) to the international boundary line; thence west on said international boundary line to a point where range line between ranges sixty-one (61) and sixty-two (62) west intersects the international boundary line; thence south on range line between ranges sixty-two (62) and sixty-one (61) to the fifteenth

standard parallel; thence east on said standard parallel to the northwest corner of township one hundred and sixty (160) north, range sixty-one (61) west; thence south on range line between ranges sixty-two (62) and sixty-one (61) to the southwest corner of township one hundred and sixty (160) north, range sixty-one (61) west; thence east on township line between townships one hundred and sixty (160) and one hundred and fifty-nine (159) to the place of beginning, shall be and the same is hereby declared to be and is constituted the county of Harvey.

§ 2. SPECIAL ELECTION—DUTY OF CLERK OF PEMBINA COUNTY.] That for the purpose of carrying out the provisions of section one of this act, it is hereby made the duty of the county clerk of the county of Pembina, in this Territory, to call a special election within the limits of the boundaries of the county of Pembina as now constituted, to be held at the several precincts within said county not later than the tenth day of June, 1883, and shall cause three notices to be posted in each of said precincts at least twenty days prior to the election, which said notices shall state where the polls shall be, the day of the week as well as the day of the month, the hour at which the polls shall be opened and closed, and the purpose for which the election is called. The ballots to be used by the electors within the county of Pembina shall have printed or written or partly printed or written, "For the division of Pembina county, "No" or "Yes," as the case may be. The judges of election shall make return to the county clerk of Pembina county, showing how many votes were cast for county division, "No;" for county division, "Yes." The county commissioners shall together with the register of deeds of the county, meet at the county seat of Pembina county, within twenty days from the day of election to canvass the votes of the several precincts. And the county clerk of Pembina county shall make certified abstract of the vote of the county of Pembina, and forward the same to the Secretary of the Territory and one to the Governor of the Territory; and if the Governor and Secretary shall find that a majority of all the votes cast at said election have been cast in favor of such division, then it shall be the duty of the Governor to issue his proclamation to that effect, and then and thereafter the district described in section one shall constitute and be known as the county of Harvey and shall be organized as other counties are organized, upon proper petition.

§ 3. WHERE ATTACHED.] That said county of Harvey is hereby attached to the county of Pembina for judicial purposes.

§ 4. All acts or parts of acts in conflict with this act are hereby repealed.

§ 5. This act shall be in force from and after its passage and approval.

Approved, March 8, 1883.

CHAPTER 23.

JERAULD COUNTY.

AN ACT to Create and Define the Boundaries of the County of Jerauld.

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

§ 1. BOUNDARIES OF JERAULD COUNTY.] That all that district of country included within the following boundaries, namely :

Commencing at the northeast corner of township No. 108, range 68, thence running west on the second parallel to the northwest corner of township No. 108, range 67, thence south between ranges 67 and 68 to the southwest corner of township 106, range 67, thence east on the boundary line between townships No. 105 and 106, to the southeast corner of township No. 106, range 63, thence north on the boundary line between ranges 62 and 63 to the place of beginning, shall be and the same is hereby constituted and declared the county of Jerauld.

§ 2. NOT LIABLE FOR CERTAIN DEBT.] That no portion of said Jerauld County as herein defined shall be liable for any debt of Aurora County.

§ 3. CERTAIN TAXES DECLARED LEGAL.] That the tax as assessed by the county commissioners of Aurora County as heretofore defined and bounded, [is] hereby declared legal and binding in the portion of said Aurora County hereby made a part of the county of Jerauld; and the county treasurer of said Aurora county is hereby authorized and it is hereby made his duty to collect said tax in the same manner as if said county had not been divided.

§ 4. SPECIAL ELECTION.] That a special election shall be held in that part of the county of Jerauld as herein defined which it is proposed to take from the county of Aurora, on the 17th day of April, 1883, and the county clerk of the county of Aurora shall give public notice thereof, by causing the same to be published in two weekly papers published in the said county of Aurora, for three successive weeks prior to said 17th day of April, and shall also cause notices of said election to be posted up in three places in said proposed county of Jerauld at least twenty days prior to said 17th day of April, 1883, and said notice shall define the precincts, and polling places within the boundaries of said county of Jerauld as herein defined; and said clerk of said county of Aurora shall also appoint three judges of election for

each polling place, and said election shall be held in all respects as general elections, except as otherwise herein provided.

Provided, That if any of the judges appointed to serve at said election shall not be present at the polling places for which they or any of them are appointed, then all vacancies shall be filled in the same manner as at general elections.

§ 5. **BALLOTS.—CANVASS OF VOTE.**] That the ballots to be used by the electors within said county of Jerauld as herein defined, shall be as nearly as may be “for the division of Aurora county: Yes:” or “for the division of Aurora county, No;” and the county commissioners of said Aurora county, together with the register of deeds of said county, shall meet at the county seat of Aurora county on the Monday following said special election, and proceed to canvass the votes of the several election precincts, and shall make a certified abstract thereof, and forward the same to the Secretary of the Territory, and to the Governor of the Territory; and if the Governor and Secretary shall find that the said county of Jerauld shall have voted in favor of such division, then it shall be the duty of the Governor to issue his proclamation organizing said county; and shall appoint three commissioners for said county, who shall have authority to appoint the other officers of said county:

Provided, That if a majority of the electors of said county of Jerauld as herein defined shall vote against the division of said county, then the county of Aurora as now constituted and defined shall be and remain unchanged.

§ 6. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 9, 1883.

CHAPTER 24.

LAMOURE COUNTY.

AN ACT Defining the Boundaries of the County of LaMoure.

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

§ 1. **BOUNDARIES OF LA MOURE COUNTY]** All of that district of country included within the following boundary lines shall be

and the same is hereby constituted and declared the county of La Moure, viz:

Beginning at the southeast corner of township number one hundred and thirty-three (133) north, of range number fifty-nine (59) west, and running thence north and along the line between ranges fifty-eight (58) and fifty-nine (59) to the northeast corner of township number one hundred and thirty-six (136) north, of range number fifty-nine (59) west; thence west and along the ninth (9th) standard parallel to the northwest corner of township one hundred and thirty-six (136) north, of range number sixty-six (66) west; thence south and along the line between ranges sixty-six (66) and sixty-seven (67) to the southwest corner of township one hundred and thirty-three (133) north, of range sixty-six (66) west; thence east and along the eighth (8th) standard parallel to the place beginning; and the jurisdiction of said county of La Moure shall, upon the taking effect of this act, extend over all the district embraced in the above boundaries.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 9, 1883.

CHAPTER 25.

McLEAN COUNTY.

AN ACT Creating the County of McLean and Defining the Boundaries thereof.

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

§ 1. BOUNDARIES OF McLEAN COUNTY.] All that district of country included within the following boundaries, to-wit:

Beginning in the center of the main channel of the Missouri river at the point of intersection of the south line of township number 144 north, of range 81 west, of the fifth (5th) principal meridian; thence east on said line to the southeast corner of said township; thence north to the eleventh standard parallel; thence east to the southeast corner of township number 143, range 80 west; thence north to the northeast corner of township number 147, range 80 west; thence west to the center of Snake creek;

thence down the center of said creek to the center of the main channel of the Missouri river; thence down the center of the main channel of said river to the place of beginning, is constituted and declared to be the county of McLean.

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

Approved, March 8, 1883.

CHAPTER 26.

McINTOSH COUNTY.

A BILL for An Act to Create the County of McIntosh and Define its Boundaries.

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

§ 1. All that district of country heretofore lying within the county of Logan, and included within the following boundary lines shall be and is hereby made, constituted and declared the county of McIntosh, viz:

Beginning at the southwest corner of township No. 129 north, of range No. 73 west, of the 5th P. M.; thence running north along the tenth guide meridian to its intersection with the 8th standard parallel, at the northwest corner of township No. 132 of range No. 73; thence running east along the 8th standard parallel to its intersection with the ninth guide meridian, at the northeast corner of township 132 north, of range 67 west; thence running south along said ninth guide meridian to its intersection with the seventh standard parallel, at the southeast corner of township No. 129 north, of range No. 67 west; and thence west along said seventh standard parallel to the place of beginning, embracing twenty-eight townships.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 9th, 1883.

CHAPTER 27.

NELSON COUNTY.

AN ACT Defining the Boundaries of Nelson County.

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

§ 1. BOUNDARIES OF NELSON COUNTY.] That all that portion of the Territory of Dakota described as follows, viz:

Commencing at the southeast corner of township one hundred and forty-nine (149) north, of range fifty-seven (57) west; thence running north on the range line between ranges fifty-six (56) and fifty-seven (57) until it intersects the thirteenth standard parallel; thence west on said parallel to the southeast corner of township one hundred and fifty-three (153) north, of range fifty-seven (57); thence north on the range line between ranges fifty-six (56) and fifty-seven (57) to the northeast corner of township one hundred and fifty-four (154) north, of range fifty-seven (57); thence west on the township line between townships one hundred and fifty-four (154) and one hundred and fifty-five (155) to the northwest corner of township one hundred and fifty-four (154) north of range sixty (60) west; thence south on the range line between ranges sixty (60) and sixty-one (61) until it intersects the thirteenth standard parallel; thence west on said parallel to the northwest corner of township one hundred and fifty-two (152) north, of range sixty-one (61); thence south on the range line between ranges sixty-one (61) and sixty-two (62) to the southwest corner of township one hundred and forty-nine (149) north, of range sixty-one (61); thence east on the township line between townships one hundred and forty-eight (148) and one hundred forty-nine (149) to the place of beginning, be and the same is hereby made, designated and constituted the county of Nelson.

§ 2. That all acts and parts of acts inconsistent herewith are hereby repealed.

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

Approved, March 9, 1883.

CHAPTER 28.

NELSON COUNTY.

AN ACT Creating the County of Nelson, Defining its Boundaries and for Other Purposes.

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

§ 1. BOUNDARIES OF NELSON COUNTY.] That all that portion of the county of Grand Forks, Ramsey and Foster, described as follows, viz :

Commencing at the southeast corner of township number one hundred and forty-nine (149) north, of range number fifty-seven (57) west; thence running north on the range line between ranges numbered fifty-six (56) and fifty-seven (57) until it intersects the thirteenth (13th) standard parallel; thence west on said thirteenth standard parallel to the southeast corner of township number one hundred and fifty-three (153) north, of range number fifty-seven (57) west; thence north on the range line between ranges numbered fifty-six (56) and fifty-seven (57) to the northeast corner of township number one hundred and fifty-four (154) north, of range number fifty-seven west; thence west on the township line between townships numbered one hundred and fifty-four (154) and one hundred and fifty-five (155) to the northwest corner of township number one hundred and fifty-four (154) north, of range number sixty (60) west; thence south on the range line between ranges numbered sixty (60) and sixty-one (61) until it intersects the thirteenth (13) standard parallel; thence east on said thirteenth (13th) standard parallel to the northwest corner of township number one hundred and fifty-two (152) north, of range number sixty (60) west; thence south on the range line between ranges numbered sixty (60) and sixty-one (61) to the northwest corner of township one hundred and fifty-one (151) north, of range sixty west; thence west on the town line between townships one hundred and fifty-one and one hundred and fifty-two to the northwest corner of township one hundred and fifty one north, of range sixty-one west; thence south on the range line between ranges sixty-one and sixty-two to the southwest corner of township number one hundred and forty-nine (149) north, of range number sixty (60) west; thence

east on the township line between townships numbered one hundred and forty-eight (148) and one hundred forty-nine (149) to the southeast corner of township number one hundred and forty-nine (149) north, of range number fifty-seven (57) west, the same being the place of beginning, be and the same is hereby designated, made and constituted the county of Nelson.

§ 2. WHERE ATTACHED.] That said county of Nelson is hereby attached to the county of Grand Forks for judicial purposes.

§ 3. All acts and parts of acts inconsistent herewith are hereby repealed.

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

ENDORSED.—Received at Executive Office, February 27, 1883, at 12:30 P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

CHAPTER 29.

NICKEUS COUNTY.

AN ACT Creating the County of Nickeus, Defining its Boundaries and for other Purposes.

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

§ 1. BOUNDARIES OF NICKEUS COUNTY.] That all that portion of the counties of Walsh, Pembina, Ramsey and Cavalier, described as follows, viz:

Commencing at the southeast corner of township number one hundred and fifty-five (155) north, range fifty-seven (57) west; thence running north on the range line between ranges fifty-seven (57) and fifty-six (56) until it intersects the fourteenth (14th) standard parallel; thence west on the fourteenth (14th) standard parallel to the southeast corner of township number one hundred and

fifty-seven (157) north, of range fifty-seven (57) west; thence north on the range line between ranges fifty-seven (57) and fifty-six (56) to the northeast corner of township one hundred and fifty-nine (159) north, of range fifty-seven (57) west; thence west on township line between townships one hundred and fifty-nine (159) and one hundred and sixty (160) to the northwest corner of township one hundred and fifty-nine (159) north, of range sixty (60) west; thence south on the range line between ranges sixty (60) and sixty-one (61) until it intersects the fourteenth standard parallel; thence east on said fourteenth standard parallel to the northwest corner of township one hundred and fifty-six (156) north, range sixty (60) west; thence south on range line between ranges sixty (60) and sixty-one (61) to the southwest corner of township one hundred and fifty-five (155) north, range (60) west; thence east on the township line between townships one hundred and fifty-five (155) and one hundred and fifty-four (154) to the southeast corner of township one hundred and fifty-five (155) north, range fifty-seven (57) west, the same being the place of beginning, be and the same is hereby designated, made and constituted the county of Nickeus.

§ 2. SPECIAL ELECTION.] That for the purpose of carrying out the provisions of section one of this act, it is hereby made the duty of the county clerk of Walsh county, Dakota Territory, to call a special election to be held at the several precincts within said county, within six months from the taking effect of this act, and at such time as the board of county commissioners of Walsh county shall deem proper, and shall cause three notices to be posted in each of said precincts at least twenty days prior to the election, which said notices shall state where the polls shall be, the day of the week, as well as the day of the month, the hour at which the polls shall be opened and closed, and the purpose for which the election is called. The ballots to be used by the electors shall have printed or written or partly printed or written, "For division of Walsh county, "No" or "Yes," as the case may be. The judges of election shall make return to the county clerk of Walsh county, showing how many votes were cast "For county division, "Yes" or "For county division "No." The county commissioners shall, together with the register of deeds for the county, meet at the county seat of Walsh county, within twenty days from the day of said election, to canvass the votes of the several precincts. And the county clerk of Walsh county shall make a certified abstract of the vote of Walsh county and forward the same to the Secretary of the Territory, and one to the Governor of the Territory; and if the Governor and Secretary shall find that a majority of the votes cast have been cast in favor of division, then it shall be the duty of the Governor to issue his proclamation to that effect, and then and thereafter all the district described in section one

shall be known as and constituted the county of Nickeus, and shall be organized as other counties are organized, upon proper petition.

§ 3. WHERE ATTACHED.] That the county of Nickeus is hereby attached to the county of Grand Forks for judicial purposes.

§ 4. All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved, March 8, 1883.

CHAPTER 30.

ROBERTS, DAY, CODINGTON AND RICHLAND COUNTIES.

AN ACT to Create the County of Roberts and Define the Boundaries thereof, and for other Purposes.

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

§ 1. COUNTY OF ROBERTS.] That all that portion of the Territory of Dakota hereinafter described, shall be known, designated and created as the county of Roberts.

§ 2. BOUNDARIES.] That the county of Roberts be and the same shall be bounded as follows, to-wit :

Commencing on the boundary line between and common to the State of Minnesota and the Territory of Dakota, where the forty-sixth (46) parallel of north latitude intersects said boundary line; thence running west and along said 46th parallel to the point where said parallel intersects the range line between ranges fifty-two (52) and fifty-three (53); thence running south on the line between ranges fifty-two (52) and fifty-three (53) to the southeast corner of township number one hundred and twenty-two (122) north, of range fifty-three (53); thence running east on the line between townships one hundred and twenty-two (122) and one hundred and twenty-one (121) to a point where said line extended would intersect said boundary line between the said State of Minnesota and the Territory of Dakota; thence northerly along said boundary line to the place of beginning.

§ 3. CHANGE OF CERTAIN BOUNDARIES.] That the southern boundary line of Sargent county and the northern boundary line of Day county be extended on township line between townships 128 and 129 until it intersects with the western boundary line of Roberts county. That the eastern boundary line of Sargents county and the western boundary line of Richland county, be and the same is hereby extended southward on range line between ranges 53 and 54 until it intersects with the south line of said Sargent county. That the western boundary line of said Roberts county as fixed and defined in section one of this act, be and the same is constituted the eastern line of Day county. That the southern line of Day county, be and the same is hereby extended easterly on the township line until it intersects the range line between ranges fifty-three (53) and fifty-four (54); thence at right angles on said range, northwesterly, to the southwest corner of said Roberts county. That the north boundary line of Codington be extended easterly and westerly until they join. That all the remainder of the Sisseton and Wahpeton Indian Reservation shall be included in and constituted a part of Grant county.

§ 4. ORGANIZATION.] For the purpose of carrying out this act the Governor is empowered to organize said county of Roberts without delay by the appointment of commissioners, whose duty it shall be in addition to the duties now prescribed by law, to equalize and provide for the assumption of the proportion of the indebtedness of the county of Grant as the same bears to the total valuation of the same.

§ 5. RICHLAND COUNTY.] All that district of country lying north of the north line of Roberts county and south of the county of Richland, is hereby attached to and made a part of Richland county.

§ 6. This act shall be in full force and effect from and after its passage and approval.

Approved, March 8, 1883

CHAPTER 31.

SANBORN COUNTY.

AN ACT to Create the County of Sanborn and Define its Boundaries, and for other Purposes.

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

§ 1. BOUNDARIES.] That all that district of country included within the following boundary lines, to-wit :

Beginning at the northwest corner of township one hundred and eight (108), range sixty-two (62); thence east along the second (2d) standard parallel to the northeast corner of township number one hundred and eight (108) north, of range fifty-nine (59) west; thence south and along the line between ranges number fifty-eight (58) and fifty-nine (59) west, to the southeast corner of township number one hundred and five (105) north, of range fifty-nine (59) west; thence west along the southern boundary of township number one hundred and five (105) to the eastern boundary line of Aurora county; thence north and along said line to the point of beginning, shall be and the same is hereby declared to be and is constituted the county of Sanborn.

§ 2. SPECIAL ELECTION.] That for the purpose of carrying out the provisions of this act it is hereby made the duty of the board of commissioners of Miner county, Dakota Territory, to call a special election within the limits of the boundaries of the new county proposed to be organized, to be held at the several precincts therein on the first Tuesday of May, A. D. 1883

§ 3. DUTY OF COUNTY BOARD — BALLOTS, CANVASS, ETC.] The said board of commissioners shall cause the district of country as defined in section one of this act, to be divided into convenient election precincts or districts, if not already so divided, and shall appoint judges and clerks therein, if not already so appointed, and shall cause three notices of said election to be posted in each of said precincts at least twenty days prior to the election, and also publish said notice at least once a week for two weeks prior to said election, in two newspapers published in said proposed new county. Said notices shall define the precincts, state where the polls shall be opened, the day of the week, as well as the day of the month upon which the election is to be held, the hour at which the polls shall be opened and closed, and the purpose for which the election

is called. The ballots to be used shall have printed or written, or partly printed and written, "For division of Miner county, " Yes," or " No," as the case may be. The judges of election shall canvass the vote and make returns of said election as provided in chapter 27 of the Political Code, and acts amendatory thereof, and the board of commissioners of said Miner county, together with the county clerk, shall meet at the county seat of said county within twenty days from the day of election, and canvass the votes of the several precincts and tabulate the same, and make an abstract thereof over their several signatures. The county clerk of said Miner county shall immediately make a certified copy of said abstract and forward the same, one to the Governor of the Territory and one to the Secretary of the Territory; and if the said Governor and Secretary upon a canvass thereof shall find that a majority of the said vote was in favor of the division, it shall be the duty of the Governor to issue his proclamation declaratory of the same, and within thirty days thereafter proceed to organize said new county as now provided by law :

Provided, That if said proposition be not carried that the said board of commissioners shall, within ninety days thereafter, again submit the same question and in the same manner to the people of said proposed new county.

§ 4. OFFICERS OF NEW COUNTY.] The officers of said Miner county, including the board of county commissioners, register of deeds and county clerk, sheriff, treasurer, judge of the probate court, surveyor and coroner shall be and remain in case of the division of the said county as provided in this act, said officers of said Miner county :

Provided, That they shall elect to remove and reside within the limits thereof, if not already such residents.

§ 5. DUTY OF COUNTY TREASURER.] It is hereby made the duty of the treasurer of said Miner county, to collect and pay over to the treasurer of said new county when organized, all taxes which may be uncollected upon the lists in his hands upon property or other subjects of taxation within the limits of said new county.

§ 6. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

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

Approved, March 9, 1883.

CHAPTER 32.

SARGENT COUNTY.

AN ACT Creating the County of Sargent and Defining its Boundaries and for Other Purposes.

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

§ 1. BOUNDARIES.] That all that district of country included within the following boundary lines, to-wit:

Beginning at the extreme southwest corner of township one hundred and twenty-nine (129) north, of range fifty-eight (58) west; thence north along the line between ranges fifty-eight (58) and fifty-nine (59) to the eighth (8th) standard parallel; thence east along the said eighth (8th) standard parallel to the northeast corner of township one hundred and thirty-two (132) north, of range fifty-three (53) west; thence south along the line between ranges fifty-two (52) and fifty-three (53) west to the seventh (7th) standard parallel; thence west along the line of the said seventh standard parallel line to the place of beginning; shall be and the same is hereby constituted and declared to be the county of Sargent excepting that portion of said bounded Territory as now is included in and belongs to what is now known as the Sisseton and Wahpeton Indian Reservation, so long as said portion shall be and remain a portion of said reservation.

§ 2. SPECIAL ELECTION.] That for the purpose of carrying out the provisions of section one of this act, it is hereby made the duty of the county clerk of the county of Ransom, of this Territory, to call a special election within the limits of the boundaries of the new county proposed to be created, to be held at the precincts or precinct within said proposed county which may have been heretofore established, on the first Monday in April, 1883, and shall cause three notices to be posted in each of said precincts or precinct as the case may be, at least twenty days prior to the election, which said notice shall state where the polls shall be, the day of the week as well as the day of the month; the hour at which the polls shall be opened and closed, and the purpose for which the election is called. The ballots to be used by the electors within the said district at said election, shall be printed or written or partly printed or written, and in the form following, to-wit: For Division of Ransom county, "Yes" or "No" as the case may be.

§ 3. JUDGES, RETURNS AND CANVASS.] The judges of election who acted at the last general election within said district shall be the judges of said election unless a vacancy in said board or boards shall have occurred previous to said election; or in case such judges shall not be present at said election, then the qualified electors present at said polls shall elect such judges as provided by law. And said judges of election shall make returns to the county clerk of said county of Ransom, showing how many votes were cast for county division "Yes" for county division "No." The county commissioners shall, together with the register of deeds of the county, meet at the county seat of said Ransom county within twenty days from the day of election to canvass the vote of said district.

§ 4. CLERK OF RANSOM COUNTY TO ISSUE PROCLAMATION.] That if the clerk of said Ransom county shall find by the returns of the votes of the several precincts or precinct within the limits of the county of Sargent, shall be in favor of the division of said county, then it shall be the duty of the register of deeds of said county to issue a proclamation within said county declaring the result of said vote, and also to forward to the Governor of the Territory at Yankton, a certificate of such result, and if it appears to the Governor that said proposed county has given a majority of votes in favor of said division, then it shall be his duty to organize the said county of Sargent when petitioned so to do by at least fifty actual residents and qualified voters of said Sargent county as now provided by law for the organization of new counties.

§ 5. WHERE ATTACHED.] That when said county of Sargent shall be created as aforesaid, the same shall be attached to the county of Richland for recording and judicial purposes until the same shall be duly organized as provided in section four.

§ 6. CERTAIN BOUNDARY DEFINED.] That the north boundary of said Sargent county shall be the south boundary of the county of Ransom.

§ 7. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 8. This act shall take effect from and after its passage and approval.

Approved, March 3, 1883.

CHAPTER 33.

SARGENT COUNTY.

AN ACT Supplemental to An Act Creating the County of Sargent, Defining its Boundaries and for Other Purposes, which Became a Law March 3, 1883.

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

§ 1. PRECINCTS ESTABLISHED IN PROPOSED COUNTY.] That section two of said act be amended as follows: Add to said section the following:

Provided, That there shall be at least two voting precincts in said district, and in case two precincts shall not have been heretofore established, then it shall be the duty of the chairman of the board of county commissioners, county clerk and the judge of probate to establish such voting precincts, one of which shall be at the store of R. Holding, in town 130, range 54, and the other at the house of A. C. Smith, in town 132, range 57, and said chairman of the board of county commissioners, county clerk, and judge of probate, are hereby empowered to appoint judges and clerks of election for said precinct, when they are not otherwise in said act provided for.

§ 2. CHANGE OF TIME.] That the time mentioned in said act for holding the election shall be changed to the second Monday in April, instead of the first Monday.

§ 3. STRICKEN OUT.] That the words "recording and" in the fifth section of said act be stricken out.

§ 4. WHERE ATTACHED.] That said Sargent county shall be attached to Ransom county for recording purposes until organized as provided by law.

§ 5. MISDEMEANOR.] That in case of any violation of the provisions of the act to which this act is supplemental by any of the persons mentioned therein who are required to carry out the provisions of said act, the person so offending shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided by law.

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

Approved, March 7, 1883.

CHAPTER 34.

SCHNASSE COUNTY.

AN ACT Creating the County of Schnasse and Defining the Boundaries thereof.

Be it Enacted by the Legislative Assembly of Dakota :

§ 1. BOUNDARIES OF SCHNASSE COUNTY.] All that district of country included within the following boundaries, to-wit:

The 102nd degree of longitude west from Greenwich on the west, the Cannon Ball river on the north, the 101st degree and 30 minutes of longitude west from Greenwich on the east, and the 45th parallel of north latitude on the south, is constituted and declared the county of Schnasse and jurisdiction of the said county of Schnasse, shall upon the taking effect of this act, extend over all the district embraced within the above boundaries.

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

ENDORSED.—Received at Executive Office, March 6, 1883.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

CHAPTER 35.

STANLEY COUNTY.

AN ACT Defining the Boundaries of the County of Stanley.

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

§ 1. BOUNDARIES OF STANLEY COUNTY.] That all that district of country in the Territory of Dakota, included within the following boundary lines, to-wit :

Bounded on the north by the second Black Hills standard parallel north, extended ; bounded on the east by the west bank of the Missouri river at low water mark ; bounded on the south by a parallel line, 48 miles north of the tenth standard parallel, based on the sixth principal meridian, (which said parallel line is hereby declared the north boundary line of the counties of Pratt and Presho), and bounded on the west by the one hundred and first (101st) degree of longitude west from Greenwich, is hereby constituted and declared the county of Stanley.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 9, 1883.

CHAPTER 36.

STEELE COUNTY.

AN ACT Creating the County of Steele, Defining its Boundaries, and for other Purposes.

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

§ 1. BOUNDARIES.] That all that district of country included within the following boundary lines, to-wit :

Beginning at the southeast corner of township 144, on the range line between ranges 53 and 54, running thence west on the township line between townships 143 and 144, to the southwest corner of township 144, range 57; thence north on the range line between ranges 57 and 58, to the northwest corner of township 148, range 57; thence east along the township line between townships 148 and 149, to the northeast corner of township 148, range 54; thence south on the range line between ranges 53 and 54, to the place of beginning, shall be, and the same is hereby declared to be and is constituted the county of Steele.

§ 2. ELECTION IN GRIGGS AND TRAILL COUNTIES, ETC.] That for the purpose of carrying out the provisions of section one of this act, it is hereby made the duty of the county clerk of each of the counties of Griggs and Traill in this Territory, to call a special election in their respective counties, on the second day of June, A. D. 1883; the voting to be done at the regularly established precincts, and those at which the last general election for county and territorial officers was had; and the clerks shall cause three notices of said election to be posted in each of said precincts in both the counties of Griggs and Traill, at least ten days prior to the election, which said notices shall state where the polls shall be, the day of the week as well as the day of the month, the hour at which the polls shall be opened and closed, and the purpose for which the election is called. The judges of election for the polling places in Griggs to be appointed by the board of county commissioners of Griggs county. The judges of election for the polling places in Traill county, to be appointed by the county commissioners of Traill county. The ballots used by the electors within the county of Griggs shall have printed or written or partly printed and partly written thereon, "For the division of Griggs county, "Yes," or "No," as the case may be; and the ballots used by the electors of Traill county shall have printed or written, or partly printed or partly written thereon, "For the division of Traill county, "Yes," or "No," as the case may be. The judges of election shall make returns to the county clerks of their respective counties, showing how many votes were cast for county division, "No;" for county division, "Yes." The county commissioners of their respective counties shall meet at the county seat in their said counties, within ten days from the day of election, to canvass the votes of the said polling places; and the county clerk of each of said counties of Griggs and Traill shall make certified abstracts of the vote of their county, and forward one to the Secretary of the Territory and one to the Governor of the Territory; and if it appears to the Governor that a majority of all the votes cast at the said election were in favor of division, *that* [then] it shall be his duty to organize the said county of Steele when petitioned so

to do by at least fifty actual residents of the county of Steele and organize the same as provided by law for the organization of new counties.

§ 3. UNPAID TAXES.] All unpaid and delinquent taxes for the year 1882, and previous years, assessed against that portion of Traill county, which by this bill becomes a part of Steele county, shall belong to and be collected by the county of Traill.

§ 4. WHERE ATTACHED.] The said county of Steele shall be annexed to the county of Traill for judicial purposes.

§ 5. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved, March 8, 1883.

CHAPTER 37.

TOWNER, ROLETTE AND CAVILIER COUNTIES.

AN ACT Creating the County of Towner, Defining its Boundaries, and Defining the Boundaries of the Counties of Rolette and Cavalier.

Be it Enacted by the Legislative Assembly of Dakota Territory :

§ 1. BOUNDARIES OF TOWNER COUNTY.] That all that portion of the counties of Rolette and Cavalier, described as follows :

Commencing at the southeast corner of township one hundred and fifty-seven (157) north, range sixty-five (65) west ; thence running north on the range line between ranges sixty-four (64) and sixty-five (65) to a point where said range line intersects the fifteenth (15th) standard parallel ; thence west on said standard parallel to the southeast corner of township one hundred and sixty-one (161) north, range sixty-five (65) west ; thence north on the range line between ranges sixty-five (65) and sixty-four (64) to the international boundary line ; thence west on said international boundary line to a point where said line intersects the range line running between ranges sixty-eight (68) and sixty-nine (69) ; thence south on said range line between ranges sixty-eight (68) and sixty-nine (69) to the fifteenth standard parallel ; thence east on

said standard parallel to the northwest corner of township one hundred and sixty (160) north, range sixty-eight (68) west; thence south on the range line between ranges sixty-eight (68) and sixty-nine (69) to the fourteenth standard parallel; thence east on said fourteenth standard parallel to the place of beginning, be and the same is hereby designated, made and constituted the county of Towner.

§ 2. WHERE ATTACHED.] That said county of Towner is hereby attached to Pembina county for judicial purposes.

§ 3. CAVILIER.] That all that portion of territory embraced within the following described boundaries, viz:

Beginning at the southeast corner of township one hundred and fifty-seven (157) north, range sixty-one (61) west; thence running north on the range line between ranges sixty (60) and sixty-one (61) to the southeast corner of township one hundred and sixty (160) north, range sixty-one (61) west; thence running west on the township line between townships one hundred and sixty (160) and one hundred and fifty-nine (159) to the southeast corner of township one hundred and sixty (160) north, range sixty-two (62) west; thence north on the range line between ranges sixty-one (61) and sixty-two (62) to the international boundary line; thence west on said international boundary line to a point where said line is intersected by the range line running between ranges sixty-four (64) and sixty-five (65); thence south on said line between ranges sixty-four (64) and sixty-five (65) to the fourteenth standard parallel; thence east on said fourteenth standard parallel to the place of beginning, shall be and remain the county of Cavilier.

§ 4. ROLETTE.] That all that portion of territory embraced within the following described boundaries, viz:

Beginning at the southeast corner of township one hundred and fifty-seven (157) north, range sixty-nine (69) west; thence running north on the range line between ranges sixty-eight (68) and sixty-nine (69) to the international boundary line; thence west on said international boundary line to a point where said line is intersected by the range line running between ranges seventy-three (73) and seventy-four (74); thence south on the range line between ranges seventy-three (73) and seventy-four (74) to the fourteenth standard parallel; thence running east on said fourteenth standard parallel to the place of beginning, shall be and remain the county of Rolette.

§ 5. All acts or parts of acts inconsistent herewith are hereby repealed.

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

Approved, March 8, 1883.

CHAPTER 38.

VILLARD, BOWMAN, EWING, BURDICK, BILLINGS AND HARDING COUNTIES.

AN ACT to Create and Define the Boundaries of the Counties of Villard, Bowman, Ewing and Burdick and to Define the Boundaries of the Counties of Billings and Harding.

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

§ 1. BOUNDARIES OF VILLARD COUNTY.] All that district of country included within the following boundary lines, shall be and is hereby made, constituted, and declared the county of Villard, namely :

Beginning on the western boundary line of Dakota Territory where it intersects the parallel of forty-six degrees and forty minutes north latitude, running thence east along said parallel to the one hundred and third meridian of longitude west of Greenwich ; thence south along said meridian to the parallel of forty-six degrees and twenty minutes north latitude ; thence west along said parallel to the west boundary line of the Territory of Dakota ; thence north along said boundary line to the place of beginning.

§ 2. BOWMAN.] All that district of country included within the following boundary lines, shall be and is hereby made, constituted and declared the county of Bowman, namely :

Beginning on the western boundary line of Dakota Territory where it intersects the parallel of forty-six degrees and twenty minutes north latitude, running thence east along said parallel to the one hundred and third meridian of longitude west from Greenwich ; thence south along said meridian to the forty-sixth parallel of north latitude ; thence west along said forty-sixth parallel to the western boundary line of the Territory of Dakota ; thence north along said boundary line to the point of beginning.

§ 3. EWING.] All that district of country included within the following boundary lines, shall be and is hereby made and declared the county of Ewing, namely :

Beginning on the western boundary line of Dakota Territory, where it intersects the forty-sixth parallel of north latitude ; thence east along said forty-sixth parallel to the one hundred and third meridian of longitude west of Greenwich ; thence south along said meridian to the parallel of latitude forty-five degrees

and forty minutes north; thence west along said parallel to the western boundary line of Dakota Territory; thence north along said boundary line to the place of beginning.

§ 4. BURDICK] All that district of country included within the following boundary lines, shall be and is hereby made and declared the county of Burdick, namely :

Beginning on the western boundary line of Dakota Territory where it intersects the parallel of latitude forty-five degrees and forty minutes north; thence running east along said parallel to the one hundred and third meridian of longitude west of Greenwich; thence south along said one hundred and third meridian to the parallel of latitude forty-five degrees and twenty minutes north; thence west along said parallel to the western boundary line of the Territory of Dakota; thence north along said boundary line to the place of beginning.

§ 5. HARDING.] The county of Harding shall be bounded and described as follows:

Beginning on the western boundary line of Dakota where it intersects the parallel of latitude forty-five degrees and twenty minutes north, running thence east along said parallel to the one hundred and third meridian of longitude west of Greenwich; thence south along said meridian to the forty-fifth parallel of north latitude; thence west along said forty-fifth parallel to the western boundary line of Dakota Territory; thence north along said boundary line to the place of beginning.

§ 6. BILLINGS.] The county of Billings shall be bounded and described as follows:

Beginning on the western boundary line of Dakota Territory where it intersects the forty-seventh parallel of north latitude, running thence east along said parallel to the one hundred and third meridian of longitude west of Greenwich; thence south along said meridian to the parallel of latitude forty-six degrees and forty minutes north; thence west along said parallel to the western boundary line of Dakota Territory; thence north along said boundary line to the place of beginning.

§ 7. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 8, 1883.

CHAPTER 39.

DUNN, MCKENZIE, WALLACE, ALLRED, FLANNERY, BUFORD
AND HETTINGER COUNTIES.

AN ACT Pertaining to the Subdivision of the Counties of Wallete and Howard, Dakota Territory.

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

§ 1. BOUNDARIES OF DUNN COUNTY.] That Howard county be divided into four different counties, described as follows, the descriptions being based on the fifth (5th) principal meridian system of surveys:

All that portion bounded on the south by the 47th parallel of north latitude; on the north by the eleventh standard parallel produced; on the east by the line between ranges 94 and 95 west produced, and on the west by the west boundary of Dakota Territory, shall be created into and known as the county of Dunn.

§ 2. MCKENZIE.] All that portion lying immediately north of the above described county south of the twelfth standard parallel produced, and bounded on the east by the line between ranges 94 and 95 west, produced, and on the west by the west boundary of Dakota Territory, shall be created into and known as the county of McKenzie.

§ 3. WALLACE.] All that portion bounded on the north by the center of the main channel of the Missouri river; on the east by the line between ranges 94 and 95 west produced; on the south by the twelfth standard parallel produced, and on the west by the line between ranges 99 and 100 produced, shall be created into and known as the county of Wallace.

§ 4. ALLRED.] All that portion bounded on the north by the center of the main channel of the Missouri river; on the east by the line between ranges 99 and 100 produced; on the south by the twelfth standard parallel produced, and on the west by the west boundary of Dakota Territory, shall be created into and known as the county of Allred.

§ 5. FLANNERY.] That Wallete county be divided into two separate counties described and bounded as follows, the descriptions being based on the fifth principal meridian system of surveys:

All that portion bounded on the north by the international

boundary line; on the east by the line between ranges 94 and 95 produced; on the south by the center of the main channel of the Missouri river, and on the west by the line between ranges 99 and 100 produced, shall be created into and known as the county of Flannery.

§ 6. BUFORD.] All that portion of Waillette county bounded on the north by the international boundary line; on the east by the line between ranges 99 and 100 produced; on the south by the center of the main channel of the Missouri river, and on the west by the west boundary of Dakota Territory, shall be created into and known as the county of Buford.

§ 7. HETTINGER.] All that portion of Stark county bounded on the north by the 9th standard parallel, based on the fifth principal meridian system of surveys; on the east by the 102 meridian of longitude (Greenwich); on the south by the 46th parallel of north latitude, and on the west by the 103 meridian of longitude (Greenwich), is hereby detached from the county of Stark, and created into and shall be known as the county of Hettinger.

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

Approved, March 9, 1883.

CHAPTER 40.

WASHINGTON, MARTIN, WAGNER, RINEHART, CHOTEAU AND WASHABAUGH COUNTIES.

AN ACT to Create the Counties of Washington, Martin, Wagner, Rinehart, Choteau, Washabaugh, and Define the Boundaries of Each, and for Other Purposes.

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

§ 1. WASHINGTON.] All that district of country in the Territory of Dakota included within the following boundary lines, to-wit:

Bounded on the north by the south boundary line of Ziebach county; bounded on the east by the one hundred and second degree of longitude west from Greenwich; bounded on the south by the second Black Hills standard parallel, south, projected; bounded on the west by the one hundred and third degree of longitude west from Greenwich to its intersection with the south fork of the Cheyenne river; thence down said south fork of Cheyenne river to the south boundary line of Ziebach county and

place of beginning, is hereby constituted and declared the county of Washington.

§ 2. WASHABAUGH.] All that district of country in the Territory of Dakota included within the following boundary lines, to-wit:

Bounded on the north by the first Black Hills standard parallel, south projected; bounded on the east by the one hundred and first degree of longitude west from Greenwich; bounded on the south by the second Black Hills standard parallel, south projected; and bounded on the west by the one hundred and second degree of longitude west from Greenwich, is hereby constituted and declared the county of Washabaugh.

§ 3. MARTIN.] All that district of country in the Territory of Dakota included within the following boundary lines, to-wit:

Bounded on the north by the forty-sixth parallel of north latitude; bounded on the east by the one hundred and second degree and thirty minutes of longitude west from Greenwich; bounded on the south by the forty-fifth degree and thirty minutes of north latitude; and bounded on the west by the one hundred and third degree of longitude west from Greenwich, is hereby constituted and declared the county of Martin.

§ 4. WAGNER.] All that district of country in the Territory of Dakota, within the following boundary lines, to-wit:

Bounded on the north by the forty-sixth parallel of north latitude; bounded on the east by the one hundred and second degree of longitude west from Greenwich; bounded on the south by the forty-fifth degree and thirty minutes of north latitude, and bounded on the west by the one hundred and second degree and thirty minutes of longitude west from Greenwich, is hereby constituted and declared the county of Wagner.

§ 5. RINEHART.] All that district of country in the Territory of Dakota, within the following boundary lines, to wit:

Bounded on the north by the forty-fifth degree and thirty minutes of north latitude; bounded on the east by the one hundred and second degree of longitude west from Greenwich; bounded on the south by the forty-fifth parallel of north latitude, and bounded on the west by the one hundred and second degree and thirty minutes of longitude west from Greenwich, is hereby constituted and declared the county of Rinehart.

§ 6. CHOTEAU.] All that district of country in the Territory of Dakota included within the following boundary lines, to-wit:

Bounded on the north by the forty-fifth degree and thirty minutes of north latitude; bounded on the east by the one hundred and second degree and thirty minutes of longitude west from

Greenwich; bounded on the south by the forty-fifth parallel of north latitude, and bounded on the west by the one hundred and third degree of longitude west from Greenwich, is hereby constituted and declared the county of Choteau.

§ 7. CERTAIN COUNTIES ATTACHED TO LAWRENCE AND CUSTER.] The counties of Martin, Wagner, Rinehart and Choteau, are hereby attached to the county of Lawrence for judicial and revenue purposes, until said counties are organized as provided by law; and the counties of Washington and Washabaugh are hereby attached to the county of Custer for revenue purposes.

§ 8. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 9, 1883.

CHAPTER 41.

WYNN COUNTY.

AN ACT Creating the County of Wynn, and Defining its Boundaries.

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

§ 1. BOUNDARIES OF WYNN COUNTY.] That all that district of country included within the following boundary lines shall be and the same is hereby constituted and declared the county of Wynn, to-wit:

Beginning at the southeast corner of township one hundred and fifty-seven (157) north, of range seventy-nine (79) west, and running thence north along the line between range seventy-eight (78) and seventy-nine (79) west, to the international boundary line between the Territory of Dakota and the British Possessions; thence west along said international boundary line to the point of intersection of the range line between ranges eighty-two (82) and eighty-three (83) west, with said boundary line; thence south on said range line between ranges eighty-two (82) and eighty-three (83) west, to the township line between townships one hundred and fifty-six (156) and one hundred and fifty-seven (157) north; thence east along said township line between townships one hundred and fifty-six (156) and one hundred and fifty-seven (157), to the place of beginning.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, March 9, 1883.

Depositions.

CHAPTER 42.

AN ACT to Amend Section 471 of the Code of Civil Procedure.

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

§ 1. DEPOSITIONS TAKEN BEFORE WHAT OFFICERS.] That section four hundred and seventy-one (471) of the Code of Civil Procedure, be and the same is hereby amended so as to read as follows :

“Depositions may be taken in this Territory before a judge or clerk of the Supreme Court, or District Court, or before a justice of the peace, notary public, United States Circuit or District Court commissioner, or any person empowered by a special commission.”

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved, February 19, 1883.

District Attorneys and Clerks of Court.

CHAPTER 43.

AN ACT to Create the Office of District Attorney for the Several Counties of Dakota Territory, and for other Purposes.

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

§ 1. DISTRICT ATTORNEY TO BE ELECTED—OATH AND BOND.] A district attorney shall be elected in each county in this Territory organized for judicial purposes, at the general election in the year 1884, and biennially after the last mentioned election, a district attorney for such county, who shall hold his office for the term of two years and until his successor shall be elected and qualified ;

and shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed by law, and shall execute a bond to his county in the penal sum of one thousand dollars, with two or more sureties, to be approved by the county clerk of such county, which bond shall be conditioned for the faithful performance of his duties as such district attorney, and that he will pay over to the treasurer of his county, in the manner prescribed by law, all moneys which come to his hands by virtue of his office, and shall deposit such oath and bond in the county clerk's office :

Provided, That no person shall be eligible to the office of district attorney, who is not duly admitted to practice as an attorney in some court of record in this Territory.

§ 2. DUTIES.] It shall be the duty of the district attorney of the several counties to appear in the District Courts of their respective counties, and prosecute and defend on behalf of the Territory, or his county, all actions or proceedings, civil or criminal, in which the Territory or county is interested, or a party; and whenever the venue is changed in any criminal case, or in any civil action or proceeding in which his county or the Territory is interested or a party, it shall be the duty of the district attorney of the county where such indictment is found, or the county interested in such civil action or proceeding, to appear and prosecute such indictment, and to prosecute or defend such civil action or proceeding in the county to which the same may be changed.

§ 3. SHALL APPEAR FOR COUNTY.] Each district attorney shall when requested by any magistrate of his county, appear on behalf of the Territory before any such magistrate, other than those exercising police jurisdiction of incorporated cities and villages, and prosecute all complaints made in behalf of the Territory, except for common assault and battery, of which such magistrate shall have jurisdiction.

§ 4. SHALL GIVE COUNSEL TO CERTAIN OFFICERS.] The district attorney shall, without fee, give opinions and advice to the board of county commissioners and other civil officers of their respective counties, when requested by such board or officers, upon all matters in which the *counties* [county] is interested, or relating to the duties of such board or officers in which the Territory or county may have an interest.

§ 5. SALARY.] The district attorneys shall severally receive such salary for their services as the board of county commissioners of the proper county shall allow, not less than four hundred dollars a year; but the salary of such district attorneys shall not be increased or diminished during the term for which he shall be elected or appointed. All fees and costs recovered in civil actions in which the county is the successful party, shall be paid into the

county treasury for the use and benefit of the county; and it shall not be competent or lawful for the board of county commissioners to give and pay said fees and costs, or either, or any part thereof, to said district attorney as a part of his salary, or in addition to his salary, and every order made by said board for the purpose shall be void

§ 6. CERTAIN FEES PROHIBITED.] Said district attorneys shall not receive any fee or reward from or on behalf of any prosecutor or other individual, for services in any prosecution or business to which it shall be his official duty to attend, nor be concerned as attorney or counsel for either party other than for the Territory or county in any civil action depending on some state of facts upon which any criminal prosecution commenced but undetermined shall depend, nor shall any district attorney while in office be eligible to or hold any judicial office whatever, but if the district attorney of one county shall be requested to go to another county, or from one part to another part of his county to transact any business as district attorney, he shall be paid by his county the amount of his necessary expenses in transacting such business in addition to the salary fixed by the county board.

§ 7. WHEN COURT MAY APPOINT.] Each of the District Courts whenever there shall be no district attorney for the county, or when the district attorney shall be absent from the court, or unable to attend to his duties, may, if the court shall deem it necessary, appoint by an order to be entered in the minutes of the court, some suitable person to perform for the time being the duties required by law to be performed by the district attorney, and the person so appointed shall thereupon be vested with all the powers of such district attorney for that purpose.

§ 8. MONEYS RECEIVED FOR FINES, HOW DISPOSED OF.] It shall be the duty of every district attorney, whenever he shall receive any moneys for fines, recognizances, penalties or costs, to deliver to the officer or person paying the same, duplicate receipts, one of which shall be filed by such officer or person in the office of the county treasurer.

§ 9. SHALL FILE STATEMENT.] Every district attorney shall on or before the first day of January in each year, file in the office of the county treasurer an account in writing, verified by his affidavit, to be filed with said account, of all moneys received by him during the preceding year by virtue of his office, or any fines, recognizances, forfeitures, penalties or costs; and he shall specify in such account the name of each person from whom he may have received such moneys, the particular amount paid by each person and the cause for which each payment was made. But he shall pay over to the county treasurer all money he may receive as such district attorney within ten days after he receives it.

§ 10. PENALTY FOR NEGLIGENCE.] Whenever such district attorney shall refuse or neglect to account for or pay over the moneys so received by him as required by the foregoing section, he shall be liable to a fine of not less than fifty dollars nor more than two hundred dollars; but it shall be the duty of the county treasurer in his official name and capacity to cause an action to be instituted upon the bond of such district attorney for the recovery of the moneys so received and unpaid by him.

§ 11. SHALL ATTEND GRAND JURY.] Whenever required by the grand jury it shall be the duty of the district attorney of the county to attend them for the purpose of examining witnesses in their presence, or of giving them any advice in any legal matter, or to issue subpoenas and other processes to enforce the attendance of witnesses.

§ 12. CLERK OF COURT TO BE ELECTED—PROVISO.] There shall be elected at the same time as provided in this act for the election of district attorneys, for each organized county in this Territory, a clerk of the District Court, who shall be a resident of the county for which he is elected and a qualified voter thereof, and shall possess the necessary qualifications for holding office as provided in section 47, chapter 27 of the Political Code; and all of the provisions of chapter 24 of the Political Code not inconsistent with the provisions of this section, shall be applicable in governing said clerks of the District Court:

Provided, That in the counties of Brookings and Moody the clerk of the District Court herein provided for shall be elected at the election in November, 1883, and thereafter as otherwise provided in this act.

§ 13. WHEN TO QUALIFY.] Said clerks of the District Court shall qualify within ten days after receiving their certificates of election, and immediately after qualifying shall enter upon the discharge of the duties of their offices.

§ 14. CERTAIN ACT REPEALED.] That chapter 14 and 15 of the Political Code, and chapter 18 of the session laws of 1879, shall cease to have effect, and shall be void on and after January 1st, 1885.

§ 15. This act shall take effect after its passage and approval.
Approved, March 7, 1883.

Education.

CHAPTER 44.

AN ACT to Establish and Provide for the Maintenance of a General and Uniform System of Common Schools and Improve their Usefulness.

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

§ 1. COMMON SCHOOL SYSTEM ESTABLISHED. OFFICERS.] A general and uniform system of free public common schools is hereby established and shall be provided for and maintained in all parts of this Territory included within organized counties. Those schools which are within incorporated cities, towns and villages which now have or may hereafter have boards of education, shall be governed by such laws as now are or may hereafter be in force concerning them, but this act shall not apply to or govern such boards of education except in those matters wherein it specifically refers and applies to them. All other public schools shall be established, maintained and governed under this act, and for their organization and government and the administration of the affairs of all public schools so far as they have relations thereto, the following officers shall be appointed, elected, or otherwise designated, with the various powers and duties provided in the several laws to them relating, viz :

A superintendent of public instruction for the Territory ; deputy superintendent of public instruction for the Territory ; a county superintendent of public schools for each organized county ; a board of education for every incorporated city, town or village entitled thereto, and having the membership and subordinate officers provided by law ; a school board consisting of three members for every organized school township ; and such other officers as may be by law provided or associated with these in duty.

SCHOOL CORPORATIONS.

§ 2. POWERS OF SCHOOL TOWNSHIPS.] Every organized school township is hereby declared a distinct municipal corporation for school purposes, by the proper corporate name of the school township, and by such name shall be capable and have power to contract and be contracted with ; to sue and be sued in any court

having competent jurisdiction ; to take by grant, gift, bequest or devise, and hold and dispose of, and convey any real or personal property or estate, and to so take, hold, and dispose of the same whether transferred in terms to such corporation by its proper name and style, by designation, or to any person or persons, or body or officer, for it, for the use and benefit of common schools and for school purposes ; and such property while used or appropriated for such school purposes shall not be levied upon or sold by virtue of any warrant, writ, execution or other process, nor be subject to any judgment lien, nor be subject to taxation for any purpose whatsoever ; and the title of the school houses, sites, lots, furniture, books, apparatus and all appendages and appurtenances, and all other property belonging to any such corporation for school purposes, and all such property in this act mentioned and within such corporation, shall be vested in said corporations respectively. This section and the powers in this act granted to such corporations and the school boards thereof shall not be construed to prevent the alteration of the boundaries of any such corporation for the good of schools or for necessary civil purposes.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

§ 3. TERRITORIAL SUPERINTENDENT. HOW APPOINTED, &c. At each biennial session of the legislative assembly, the Governor shall nominate, and by and with the advice and consent of the legislative council, appoint a person of suitable learning, ability and experience as superintendent of public instruction, who shall hold his office for two years and until his successor is appointed or elected and qualified, and who shall be a Territorial officer. When any vacancy occurs in said office by death, resignation or otherwise, the governor shall appoint some skilled, suitable and qualified person to the vacancy, and the person so appointed shall hold the office for the remainder of the term and until his successor is appointed or elected and qualified. The governor is authorized to remove from office any superintendent of public instruction who violates, or fails to faithfully discharge the duties of his office, and to appoint a successor as herein provided. The superintendent of public instruction shall qualify as provided by the Political Code, before entering upon the duties of his office.

§ 4. DUTIES OF SUPERINTENDENT.] It is the duty of the superintendent of public instruction to make and preserve a record of his official acts ; to faithfully and constantly labor to promote the interests of public schools and education throughout the Territory and in all the organized counties thereof ; to visit the common schools therein, confer and advise with the county superintendents

and teachers, direct and aid them in the efficient, systematic and thorough organization of common schools and encourage the opening and maintenance of additional schools when necessary; to prescribe and furnish blank forms for the collection of statistics and making reports of all the schools and school property within the Territory, and of the receipt and disbursement of all public school funds. He shall also make a careful study of the school system from his own experience and that of others in the Territory, and shall open such correspondence with other Territories and States as shall be necessary to enable him to secure useful information of systems and improvements therein, and embody the results of such study in recommendations in his reports to the Governor, and make such redraft of our school laws or prepare such amendments for the same as in his judgment are necessary to the more successful conduct of our schools, the care of our school funds and the improvement of our system.

§ 5. POWERS AND DUTIES OF SAME.] He shall have power to grant certificates of qualification to persons of proper learning, ability and experience, who hold, or would be competent to receive first grade certificates in a county, and who are besides this specially meritorious, or who are graduates of normal schools, which shall authorize them to be employed and to teach in any public school in Dakota for the period of five years from and after the date thereof, and for every such certificate he may charge and receive a fee of not more than five dollars. He shall prescribe the examinations to be made by county superintendents to test the acquirements of candidates for certificates, and the respective degrees thereof which shall be required of teachers for licenses of different grades. He shall secure as far as possible uniformity in the practical working of the school laws and in the standards of qualification for teaching, and to this end may attend examinations by county superintendents, and is authorized to inspect at any time the records of county superintendents, and the examination and other papers on file in their offices; and he shall in all respects strive to render the school system and its operations efficient and useful to the people.

§ 6. SHALL REQUIRE REPORTS—DUTY WHERE FUNDS ARE MISAPPROPRIATED.] He shall require and seek to secure prompt, full and accurate reports of all statistical and financial matters required by law or useful to the system, from every officer required to make them, and shall endeavor by every means in his power to prevent all waste and every unlawful payment of school funds. If he learns of any misappropriation or unlawful detention, embezzlement or other criminal misuse of public school revenues or funds by any officer or person, he shall immediately inform the

district attorney within whose district the act occurred, and it shall be the duty of such district attorney to promptly prosecute all such offenses, and bring actions in the name of the proper school corporations for the recovery of all such funds and revenues.

§ 7. COMPENSATION, MILEAGE, &C. SHALL FURNISH BLANKS. APPROPRIATIONS.] The salary of the superintendent of public instruction shall be fifteen hundred dollars a year, which shall be paid to him in equal parts for each calendar month after the end thereof, by warrant of the Territorial Auditor upon the Territorial Treasurer, upon his filing with the Auditor his receipted account therefor. He shall also receive necessary mileage or traveling expenses for travel required in his duties to an amount in all not exceeding four hundred dollars a year. He is also authorized to procure the necessary stationery, blanks, postage, and record and account books, for his office, and to rent proper office room and provide the necessary desks, cases, tables, chairs and other furniture necessary and required for the safe and proper keeping of books, papers and correspondence, and to make convenient, advantageous, and accessible to the public, the office and its records, books and exhibits of educational apparatus and material; to an amount in all not exceeding five hundred dollars a year. He shall also cause to be prepared and printed and shall furnish to the several county superintendents the proper blanks necessary and required for their reports and for teachers certificates, and for the reports of the officers of the school corporations, and of all teachers of public schools which are required to report to them, in their respective counties, all of which blanks shall be furnished to the number of not less than three for every such officer and teacher, and such additional number as the law may require to be used; to print circulars of instruction to the various school officers and distribute them through the county superintendents; and the accounts for all such blanks and printing shall not exceed fifteen hundred dollars a year. All accounts made by him for salary; for traveling expenses; for office rent and expenses, printing, postage and stationery, and for blanks and instructions, shall be stated in detail showing the items and the cost of each, and shall be separate for each of the four general purposes above mentioned and described. And the appropriations for these several general purposes shall be known in law and in the accounts of the Superintendent and Auditor and other officers, respectively, as the salary fund, the mileage fund, the office fund, and the blank fund, and a separate account shall be kept for each. Every account shall be officially certified by him as true, correct and just, and shall be receipted to the Territory of Dakota before payment. The Auditor shall under no consideration audit and allow ac-

counts against either of said funds in any year beyond the amount appropriated therefor, but all the unexpended balances in any year may be carried over and expended in the subsequent year. There is hereby appropriated out of any money in the Territorial treasury not otherwise appropriated, the sum of fifteen hundred dollars each year for salary of the superintendent of public instruction; the sum of four hundred dollars a year for traveling expenses; the sum of five hundred dollars a year for the office expenses, and the sum of fifteen hundred dollars each year for the purchase of blanks and printing instructions.

§ 8. TEXT BOOKS, APPEALS, ETC.] The superintendent of public instruction shall discourage the use of sectarian books for any purpose, and sectarian instruction in any form in the schools, and shall advise in the selection of books for school township libraries. He shall examine and determine all appeals duly made to him from the decision of any county superintendent in all matters of difference arising between persons or officers in the administration of the school laws, except as limited under the sections governing decisions by county superintendents, and his decision of such appeals shall be final. Said appeals shall only be taken from the decision of the county superintendent upon the questions at issue, and then only in writing to the county superintendent, who shall upon receipt thereof forward to the Territorial Superintendent a brief and orderly statement of the case, together with the papers and evidence relating thereto, and the decision of the Territorial Superintendent shall be made in writing, endorsed upon such statement or upon paper attached thereto.

§ 9. ANNUAL REPORT.] The Territorial Superintendent shall on or before the fifteenth day of December in each year, prepare and present to the Governor a report in writing of his official acts for the preceding school year, with a full statement of the condition of the public schools in the Territory, the collection and expenditure of the public school funds and revenues, and statistics of the school population, number and grade and duration of schools, attendance of pupils, wages of teachers, and other facts and statistics showing the condition, progress and character of the public schools and of school property. He shall discuss any subject relating to public education he may deem important to the welfare of the schools, and make such suggestions as are required to advance, improve and support them, together with drafts of law or amendments thereto which he may recommend; which report, with all accompanying papers, the Governor shall submit to the next session of the Legislative Assembly, with his message.

COUNTY SUPERINTENDENT.

§ 10. COUNTY SUPERINTENDENT—BOND, ETC.] The qualified

electors of the several organized counties shall, at the same time and in the same manner that other county officers are chosen as provided by law, elect a suitable person, either male or female, of proper character, ability and experience to be superintendent of public schools within such county, who shall hold office for two years from and after the first Monday in January next succeeding his or her election, (except when elected to fill a vacancy, when he or she shall immediately qualify and enter upon the duties), and until his successor is elected and qualified. Before entering upon the discharge of his duties he shall take and subscribe an oath or affirmation that he will support the constitution of the United States and the laws thereof governing this Territory, and that he will faithfully discharge the duties of his office (naming it); which oath shall be filed in the office of the county clerk. He shall also execute a bond in the manner required by law, with one or more sureties, in the penal sum of five hundred dollars, which bond shall run to the county, be approved by the county board and filed in the office of the county clerk:

Provided, however, That the board of county commissioners of the proper county shall have power to dismiss from office any county superintendent for immorality, intemperance, incompetency or general neglect of duty; but no county superintendent shall be dismissed without giving him written notice, under the hand of the county clerk attested by the seal of his office, twenty days or more before the day for the next regular session of the board of county commissioners, at which the cause shall be heard. The said notice shall state the charges preferred, the character of the instrument in which they are preferred, whether petition, complaint, or other writing, with the name or names of those preferring the same. If the board find the charges true, they shall dismiss the county superintendent and appoint a proper person to the vacancy to hold as provided by law. This provision for the dismissal of a county superintendent shall not affect the powers granted by chapter twenty-two of the Political Code, but the proceedings authorized thereby may be taken against the county superintendent the same as if this law were not passed. Whenever used in this act or other law as referring to the county superintendent of public schools, the words: he, his or him, or like words, shall be also understood in the feminine gender.

§ 11. COMPENSATION, MILEAGE, ETC.] The county superintendent shall receive three dollars for each day actually employed in the discharge of the duties of his office, and the sum of ten cents a mile for each mile actually traveled by him in the necessary discharge of his duties. In addition thereto every county superintendent shall receive from his county not less than fifty dollars nor more than four hundred dollars for each year he

shall serve, to be fixed by the board of county commissioners of his county and paid to him quarterly as the salaries of county officers are paid. He shall also be allowed a reasonable amount, not less than actual cost, for record books, stationery and postage for the necessary use of his office and in his duties. He shall make out in detail his account for services and mileage, stating date and time employed, kind of services rendered and number of miles actually and necessarily traveled in his duties, which account shall be signed and verified by his affidavit, to the effect that the account and each item thereof are true. Said account may include in the same statement all and any of the several kinds of charges herein authorized, except salary, and may be rendered quarterly and filed with the county clerk for the board of county commissioners, who shall at their next session thereafter audit and allow the same, and the amount thereof shall be paid by warrant out of the county general fund. The superintendent may in such account charge for less than an entire day of service, but only by half or quarter-day items. No order for paying such account shall be issued to any superintendent for the last quarter of any year, who shall have neglected to transmit his report to the Territorial Superintendent as required by law, and who does not show the receipt of that officer for such report, stating that it is satisfactory in matter and form. Instead of such receipt he may prove that such report was sent by registered mail, and furnish his own affidavit that it was correct in matter and form.

§ 12. POWERS AND DUTIES.] The county superintendent shall have the general superintendence of the schools in his county, except those under the management of boards of education. He shall visit each common school and graded school within his county at least once in each year, and oftener if he shall deem it necessary for the purpose of increasing their usefulness, and shall strive to elevate, as far as practicable, the poorer schools to the standard of the best. At such visit he shall examine the condition of the school in all respects, the mental and moral instruction given, the order and government prevailing and the progress of the pupils in sound learning and substantial training and knowledge, the teacher's ability, fitness for the school and aptness to teach; and he shall especially observe the character of the primary instruction and advise proper methods of practice and drill, and encourage aptness in teaching this grade. He shall further advise and direct the teacher concerning the government, discipline and instruction of the pupils, and the course of study to be pursued and order of exercises to be observed; and shall adopt and urge such plans as will tend to improve the schools, and bring all as nearly as may be to the same course of study; and he shall

record, and may permit the publication of suitable notes of his inspection of each school.

§ 13. DUTIES.] The county superintendent shall encourage teachers' institutes and associations, and shall labor in every practicable way to elevate the standard of teaching, urge the continued employment of successful teachers, encourage the immigration of skilled teachers, and prevent by all proper means the employment of incompetent and inefficient teachers, and seek to make the employment of all teachers by officers a responsible public duty for the public advantage, and to be free from favor or affection and sectarian interest. In all controversies arising in the administration of the school law, including differences about schools, school funds and school townships, and all appeals from the decisions of school township boards, the opinion of the county superintendent shall be sought, whence an appeal may be taken to the Territorial Superintendent on a written statement of facts certified to by the county superintendent accompanied by the necessary papers. He shall at all times carry out and execute the decisions and instructions of the Territorial Superintendent, and shall constitute the medium between the Territorial Superintendent and subordinate school officers and teachers and schools:

Provided, That nothing in this act shall be so construed as to change or abridge the jurisdiction of any court in cases arising under the school law, nor the right of any person to bring an action in any court in any case arising thereunder.

§ 14. OFFICE ROOM, BOOKS, ETC.] The county superintendent may provide a suitable office for the transaction of his public business, and the board of county commissioners may authorize and audit accounts for such expenditures for the use and furniture of his office, as they may deem just and reasonable. He shall keep a book of record of his official acts, and safely keep all books, records and papers belonging to his office and transmit them to his successor. All books and pamphlets, circulars of information and other publications by and from the bureau of education of the United States, and all official publications of this Territory and other public documents and books relating to education officially received by him, shall be deemed public property, and at least one copy of each thereof shall be kept in his office and, with other public property and records, delivered to his successor. He shall prepare for the board of county commissioners, if not previously supplied, a correct sectional map of the county, showing the boundaries and names or numbers of all school townships, and he shall furnish a similar map each year to the county or township assessors in time to enable them to perform their duties correctly.

§ 15. MAY ADMINISTER OATHS.] The county superintendent shall have power to administer oaths of office to all subordinate school officers and to certify the same, and to witnesses, and to examine them under oath in cases of appeal, of petition, of revoking the certificate of a teacher, and in all controversies and questions arising in the administration of the school laws brought or coming before him for opinion, order, or decision, but he shall not receive additional pay for administering such oaths. Such oaths administered by him shall have the same binding force and legal effect as those authorized by chapter twenty of the Political Code, under the same conditions and penalties.

EXAMINATION OF TEACHERS.

§ 16. TEACHERS' EXAMINATION.] The county superintendent shall hold public examinations of all persons over the age of eighteen years, offering themselves as candidates as teachers of common schools, at the most suitable place in his county, on the first Tuesday of April and the last Tuesday in September of each year, notice of which shall be given publicly as possible; at which times he shall examine them by a series of written or printed questions, requiring answers in writing, so far as suitable and required by the question list furnished him by the Territorial Superintendent, and in addition thereto questions may be asked and answered orally; and if from the ratio of correct answers compared with the per cent. required by the Territorial Superintendent and the other evidences disclosed by the examination, including particularly the superintendent's knowledge and information of the candidate's successful experience, if any, the applicant is found to possess a knowledge and understanding, together with aptness to teach and govern, which will enable such applicant to teach in the common schools of the Territory, orthography, reading, writing, arithmetic, geography, English language and grammar and United States history, said superintendent shall grant to such applicant a certificate of qualification, if he is satisfied the applicant is a person of good moral character.

§ 17. GRADES OF TEACHER'S CERTIFICATE.] Such certificates shall be of three regular grades; the first grade for the term of two years, the second grade for eighteen months and the third grade for twelve months, according to the ratio of correct answers of each applicant, and other evidences of qualification appearing from the examination. In addition to these regular certificates the superintendent may grant a certificate of probation to any applicant, otherwise qualified, who shows aptness to teach and govern, who comes within ten upon each of the subjects of examination, of the standard required for a third grade certificate. Such certi-

ificate of probation shall be for the term of six months and shall be issued once only within the Territory, and shall not be repeated to any person, but all holders thereof must thereafter secure at least a third-grade certificate, or be rejected. For a certificate of the third grade or of probation the applicant is excused from examination upon United States history.

§ 18. WHO ENTITLED TO FIVE YEARS CERTIFICATE.] All persons of good moral character who are graduates of any normal school of good reputation, in the United States, shall, upon presentation of their certificate of graduation or of the completion of a teacher's course, or regular diploma from such school, be granted a certificate by the superintendent of public instruction for the term of five years, which shall be known as a professional certificate,

Provided, Such application is made within three years after the date of such diploma or certificate, or, if after that period, the applicant presents evidence that he has taught school regularly for not less than six months in the three years preceding such application.

§ 19. QUALIFIED TEACHERS. CERTIFICATES VALID FOR WHAT TIME.] Any person over the age of eighteen years securing and holding any such certificate is a qualified teacher within the meaning of this act, and no person shall be employed to teach in any of the common schools of the Territory unless such person shall hold and present a certificate issued from the proper Territorial or county authority and in full force at the date of the employment; and any teacher who shall commence teaching any such school without a certificate then in force shall forfeit all claim to compensation out of the public school fund or revenue for the time he or she so teaches without such certificate; and if a teacher's certificate shall expire by its own limitation within six weeks of a close of a term of employment, such expiration shall not have the effect to stop the school or stop the teacher's pay, but both may lawfully continue to the close of such term. All school officers are prohibited from making contracts employing persons to teach not known to them to be qualified as in this section provided, and all such contracts made with those not so qualified are null and void. The certificates issued by a county superintendent shall be valid only within the county where issued, except a first grade certificate which shows on its face that it is issued the second term upon regular examination, which shall be valid throughout the Territory.

§ 20. FEE FOR CERTIFICATE. INSTITUTE FUND.] Every applicant for a certificate shall pay one dollar to the county superintendent, and persons applying at any other time than at regular

examinations must show satisfactory reasons for not attending them, and pay the sum of two dollars additional for the superintendent's time and services in making the special examination. All money received from the one dollar payments shall constitute an institute fund for the county, and shall be paid out by the county superintendent to employ competent conductors and to pay other necessary expenses of teachers' institutes to be held within the county. This fund shall be used whenever it amounts to sixty dollars or more, and may be so used more often; and at the end of each year the county superintendent shall submit a full and accurate statement of the receipts and disbursements of this fund, verified by his oath, to the board of county commissioners.

§ 21. REVOCATION OF CERTIFICATE.] The county superintendent is authorized and required to revoke and annul at any time a certificate granted by him or his predecessors, or by any other county superintendent, and at the time in effect and use in his county, while in force, for any cause which would have authorized or required him or them to refuse to grant it if known at the time it was granted, and for incompetency, immorality, intemperance, crime against the Territorial law, cruelty, or general neglect of the business of the school; and the revocation of the certificate shall terminate the employment of such teacher in the school where he or she may be at the time employed, but the teacher must be paid up to the time of receiving notice of such revocation. The superintendent must immediately notify the clerk of the school corporation where the teacher is employed and may notify the teacher through the clerk of such revocation, and must enter his action in such case of record in the books of his office.

§ 22. SAME.] In proceedings to revoke a certificate the county superintendent may act upon his personal knowledge, or upon competent evidence obtained from others. In the latter case action shall be taken only after fair hearing, and the teacher must be notified of the change and given an opportunity to make a defense at some time and place stated in such notice. Upon his own knowledge the superintendent may act immediately without notice. When any certificate is revoked the teacher shall return it to the superintendent; but if the teacher refuse or neglect so to do, the superintendent may issue notice of such revocation by publication in some newspaper printed or largely circulated in the county.

SCHOOL TOWNSHIPS.

§ 23. ORGANIZATION OF SCHOOL TOWNSHIPS.] School townships may be organized in any county whether townships are organized for civil purposes or not. But when organized both as school townships and civil townships the boundaries and name shall be

the same for both purposes. Where civil townships are now organized the school townships may also be organized with the same boundaries and name. Both may be organized at the same time, or either first and the other afterwards. This act, except wherein otherwise specifically declared, shall apply to and govern school townships only when organized as distinct municipal corporations for school purposes, as declared in section 2 of this act. When organized as school townships they shall be known in law and in all transactions whatever under the proper name and style of each as a school township, as, ". . . . school township of county, Territory of Dakota."

§ 24. COMMISSIONERS TO DIVIDE COUNTY.] The board of county commissioners of each county shall, before the first day of June, 1883, proceed to divide the county into school townships (except when already divided into civil townships,) fix and determine the boundaries thereof, and number the same, and in so doing shall have regard for natural boundaries, but the number of school townships shall not exceed the number of congressional townships or fractional parts thereof greater than one-half, in any county. The board of county commissioners shall in the performance of their duty, call to their aid and counsel the county superintendent of public schools, and, if a different person, may call before them also the predecessor of that officer for his or her testimony and advice, and hear any citizens who are interested or who are well informed of the topography and settlement of the county. And the county superintendent shall prepare and present before them a carefully prepared map of the county which shall show the boundaries of all school districts and other school corporations in the county, the location of all rivers, lakes and marshes or other topography that would affect school travel; the location of all railroads built or under construction, and of all cities, towns and villages; and shall carefully locate thereon every school house of the value of one hundred dollars or more.

§ 25. SAME.] After carefully weighing all these facts, and having regard thereto, the board shall so divide the county into school townships as will best subserve and promote the permanent interests and welfare of the public schools in the whole county, so that not less than four primary schools may be in one school township when settled, and so that the township shall have when settled sufficient area and population and number of schools to furnish opportunity of choice between schools and to support a more advanced graded school from the patrons of all. To secure these ends they may include as many as four congressional townships or parts thereof in one school township. The board of commissioners may change the boundaries of these school townships the same as may be provided by law for changing the boundaries

of civil townships; and a change of boundary for one purpose changes it also for the other, and the boundaries and limits as well as the name shall be and remain the same for school purposes, and for civil and political purposes.

§ 26. NAME OF SCHOOL TOWNSHIP.] The school townships so formed and bounded shall be known by the number given to each by the county board until a name is adopted, and at the first township meeting the electors of each school township shall choose by ballot a name for their respective township to be substituted in lieu of the number fixed by the county board, which shall be recognized by such board and entered upon their records, after which such township shall be known and designated in law and all business by the name so elected; and should the electors of any school township fail to choose a name, as provided, the county board shall select one, and so record it, and notify the school township.

§ 27. COUNTY CLERK TO TRANSMIT PLAT.] The county clerk shall, within thirty days after the first school township election held as herein provided, transmit to the Territorial Auditor a plat of the county showing the boundaries and name of each school township therein, and shall record a copy of the same, together with all the proceedings of the county board had and done under this act, in a proper book to be kept for that purpose

§ 28. IF TWO NAMES ARE ALIKE.] If the auditor, on comparing the report with those previously received, finds that any two or more, whether school or civil townships, have the same name, he shall transmit to the county the report of which was last received, the name of the township to be altered, and the county board shall at their next meeting thereafter adopt for such school township a new name different from all those theretofore adopted, so that no two townships, civil or school, shall have the same name, and when such name is adopted the county clerk shall inform the auditor thereof, and note the same in the proper county record.

§ 29. CIVIL TOWNSHIPS TO BECOME SCHOOL TOWNSHIPS, WHEN.] All civil townships now organized shall become school townships by the election and qualification of the officers thereof as hereinafter provided; but before they are so organized and before the first day of June, 1883, the board of county commissioners of the county in which they are organized shall carefully reconsider the boundaries, area and situation thereof, in all respects as provided herein for dividing a county into school townships, and shall so far as necessary change and rearrange the boundaries thereof so as to render the townships suitable and convenient for school purposes as well as for civil purposes, and they may, to this end, discontinue and consolidate townships and otherwise suitably rear-

range and fix anew their boundaries and limits. If any township be discontinued the county clerk shall report the fact and the name thereof to the auditor.

§ 30. OFFICERS OF SCHOOL TOWNSHIP.] The officers of every school township shall be a director, clerk and treasurer, who shall be qualified electors of the county and residents of the township, and shall each be elected to serve for the term of three years and until his successor is elected and qualified, except in the organization of school townships they shall be elected for parts of such term, and so that the term of the first treasurer shall expire on the 30th day of June, 1884, or 1887, or in terms of three years thereafter, and the term of the first clerk shall expire on the 30th day of June, 1885, or 1888, or in terms of three years thereafter, and the term of the first director shall expire on the 30th day of June, 1886, or 1889, or in terms of three years thereafter, in order that the terms of all officers of each kind in the Territory shall expire in the same year, and one of the three officers shall retire, one be chosen annually.

§ 31. ELECTION IN SCHOOL TOWNSHIP.] An election shall be held in every school township upon the Tuesday before the last Saturday in June, in the year 1884, and each year thereafter, at which such officers shall be elected as are by law to be chosen, and such other questions may be voted upon at such election as may be submitted in pursuance of law. There shall be but one poll in each school township for such election, and the director and treasurer thereof, with one other person, being an elector, chosen by the voters present at the opening of the poll, shall act as judges of election, and the school township clerk and the clerk of the civil township shall act as clerks of election, and if there be no civil township clerk, or if any of the judges or clerks be absent or fail to act, such qualified electors of the township as may be present at the place of voting, shall fill the vacancies by vote upon motion then made, and the persons so chosen, being qualified electors of the township, shall serve. The officers of the township shall serve under their oaths of office, and one of them shall administer the oath required by law to the persons so chosen to act as judges or clerks. In the absence of all such officers the oath to one or more of the judges shall be administered by some person authorized by law to administer oaths, and the oath to the other judges and the clerks may be administered by a judge so sworn. The polls shall close at four o'clock, P. M., and the ballots shall be immediately counted and the votes canvassed. The elections shall be held and conducted in the manner prescribed by the statutes of the Territory providing for and governing general elections, except as in this act provided, and the votes shall be canvassed as provided by

general law, and the results shall be certified and returned both to the clerk of the school township and to the county clerk, and to the clerk of the school township the ballot box and ballots shall be returned. The certified return to the county clerk must be upon one of the regular poll books.

§ 32. FIRST ELECTION—PROCEDURE.] The first election held in any school township already organized as a civil township shall be held by the officers of the civil township as provided by law for elections in civil townships, and the officers thereof shall make the returns as provided in that law, and the clerk of the civil township shall immediately transmit to each person elected a certificate of his election. In school townships not organized as civil townships the county officers shall give the notices of the first election and appoint the election officers for each poll, the same as required by the general election law; and the sheriff shall serve the papers and with the county clerk do all other duties and make all provisions for the election as provided for general elections. The returns shall be made as above required to the county clerk, and the other returns shall be made to the school township clerk after his qualification, and the election board shall in each case immediately make and transmit to the person having the highest number of votes for each office, a certificate of his election to the office (naming it) signed by at least two judges and one clerk of election.

§ 33. CERTIFICATES OF ELECTION.] In all elections after the first in school townships, the school clerk shall within three days after the canvass of the votes as hereinbefore provided, sign and transmit to each person elected to any office in the school township, a certificate of his election to the office, naming it fully. In the first election the school clerk shall immediately after he qualifies certify to the county clerk the name chosen for the township.

§ 34. VACANCIES.] When any vacancy occurs in any office of a school township, by death, resignation, ceasing to be a resident of the township, or otherwise, the fact of such vacancy shall be immediately certified to the county superintendent by the clerk of the school township, or if that be the vacant office, by the director, or if two offices become vacant at the same time, by the remaining officer, and the county superintendent shall immediately appoint in writing some qualified elector of the school township who shall qualify and serve until the next annual election of the school township, when a successor shall be chosen for the unexpired term if any, or for the succeeding term. The county superintendent shall at the same time notify in writing the county clerk and the clerk of the school township of every such appointment.

QUALIFICATIONS OF OFFICERS.

§ 35. **TREASURER—QUALIFICATIONS OF.]** The treasurer of every school township shall, before entering upon duty as such, give bond to such corporation conditioned that he will faithfully and impartially discharge the duties of his office (naming it fully,) and render a true account of all moneys, credits, accounts and property of every kind that shall come into his hands as such treasurer, and pay and deliver the same according to law. Such bond shall be in a penal sum equal to double the amount of money, as near as can be ascertained, to come into his hands as such treasurer in any one year, and shall have two or more sufficient sureties, to be approved by the director and clerk of the township. In case the director or clerk, or either of them, neglect or refuse to approve such bond and the sureties thereto, such treasurer may present the same to the county superintendent or the judge of the probate court or the clerk of the district court of the county, and serve notice thereof upon the director and clerk or the one thereof who refused or neglected to approve the bond; and due proof of such service being made to the officer to whom the bond is presented for approval, he shall, unless good cause for delay appear, proceed to hear and determine the sufficiency of the bond and sureties thereto, and may approve the same, and such approval shall be in all respects valid.

§ 36. **ADDITIONAL BOND FROM TREASURER.]** The director and clerk, or the county superintendent, may at any time require a new and additional bond from such treasurer, and shall require a new or additional bond whenever the amount of money to come into the hands of such treasurer shall be equal to three-quarters of the penal sum of such bond, or upon the failure, death or removal from the county of any of the sureties, or for other sufficient reason.

§ 37. **FORFEITURE OF BOND.]** All such bonds shall be filed with the county clerk, and in case of the breach of any condition thereof, the director (and in case of his failure or refusal so to do, the county superintendent) shall cause an action to be commenced and prosecuted thereon in the corporate name of the school township, and any money collected shall be paid into the county treasury to be applied to the use of schools as part of the special fund of the said township. If such director and county superintendent both fail or refuse to bring such action upon the breach of the bond, then any taxpayer of the township may cause such action to be commenced and prosecuted; and the necessary expense of such action shall be paid, unless otherwise ordered by the court, out of the special fund of the township.

§ 38. **OATH OF TREASURER.]** Each treasurer 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 faithfully and impartially perform all the duties of his office (naming it fully) as provided by the condition of his bond written within.

§ 39. OATH OF SCHOOL OFFICER.] Every director and clerk of a school township, shall, before entering upon his duties, take and subscribe, upon the back of his certificate of election or appointment, or upon paper attached thereto, an oath that he will faithfully and impartially perform all the duties of his office (naming it fully,) which oath shall be filed with the county clerk.

§ 40. AFFIRMATION.] Any person who is conscientiously scrupulous of taking an oath may be allowed to make affirmation, adding at the end thereof the following: "This I do affirm under the pains and penalties of perjury."

§ 41. PENALTY FOR REFUSAL TO QUALIFY.] Every person duly elected to the office of director, clerk or treasurer of any school township, who shall willfully neglect or refuse, for the period of one month after his election, without sufficient cause, to accept and qualify for 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 twenty-five dollars to the special school fund of his township, which amount may be recovered from him in a civil action before any justice of the peace in the county, at the suit of any officer or taxpayer of his district or township.

§ 42. PROCEEDINGS TO RECOVER MONEYS.] If any person shall refuse or neglect to pay over any money in his hands as treasurer of a school township to his successor in office, such successor must without delay bring action upon the official bond of such treasurer for the recovery of such money.

POWERS AND DUTIES OF THE BOARD.

§ 43. GENERAL POWERS.] The school board of the township shall exercise its corporate powers, and shall have charge and direction of the public schools and their affairs therein, and the control and management of its schools and all school property belonging to it, both real and personal, and in the discharge of these duties they shall have power:

1. SHALL PROVIDE SCHOOL HOUSE.] To purchase, sell, exchange and hire school houses and rooms, lots or sites for school houses, and to fence and improve them as may be suitable and proper; but they shall erect or purchase no school house upon leased ground.

2. **SAME.]** Upon such sites or lots as are now owned by school districts, and upon others purchased or taken according to law, to build, enlarge, alter, improve and repair school houses, out-houses, and appurtenances as to them may seem advisable and necessary.

3. **HAVE CUSTODY OF SCHOOL PROPERTY.]** To have the custody and safe keeping of the school houses, out-houses, books, furniture, appurtenances, library, and other school property of the township, and to see that all laws of the Territory and the rules, regulations or ordinances of any town, village or township relating thereto are properly observed and enforced.

4. **HAVE POWER TO ESTABLISH SCHOOLS.]** To organize, locate and establish conveniently such and a sufficient number of schools as are necessary for the education of all the children of school age within the township, and to discontinue or change any of them.

5. **EMPLOY TEACHERS.]** To contract with and employ all teachers in said schools.

6. **PAY TEACHERS.]** To pay the wages of such teachers out of the moneys apportioned and provided by law for the purpose of public common schools in the township.

7. **PAY CONTINGENT EXPENSES.]** To defray the necessary contingent expenses of the schools, of the board, and other expenses for school journals and publications and for Webster's Unabridged Dictionary for each school, which they are authorized to purchase.

8. **ADOPT RULES.]** To have in all respects a proper supervision and management of the common or public schools of the township, to make and adopt rules and regulations for their organization, grading, government and efficient instruction, and for the reception of pupils not residents of the township, or the transfer of pupils from one school to another, and generally for their good order, prosperity and utility; and to prescribe and adopt the text books that shall be used in the schools.

9. **PREPARE REPORTS.]** To prepare and forward the reports required by law and perform all required duties concerning them.

10. **MAKE RULES FOR CARE OF SCHOOL PROPERTY.]** To make such rules as may be necessary and proper for the protection, safe keeping, care and preservation of school houses, lots, sites, appurtenances, books and all other school property.

11. **PROCURE BOOKS, &C.]** To purchase, sell, exchange, improve and repair school apparatus, books for needy pupils, furniture, and appendages for the school house, and to provide fuel for the schools; and, if they deem it advisable, to purchase class and text books and stationery and other necessary articles required by

pupils in their school work, and sell and rent them to the pupils in the schools under their control and management.

12. GRADED SCHOOLS.] They shall also have power as hereinafter provided, to establish, maintain and control graded schools, or such modified graded schools as may be practicable, and provide for the instruction therein of pupils from the primary schools of the township who are sufficiently advanced.

13. TWO ROOM SCHOOL HOUSES.] They may locate and build one school house at some convenient and accessible point in the township which shall have two school rooms, and in one of these may be held a regular primary common school, and in the other shall be taught a more advanced school to which shall be admitted all such pupils in the township as are properly advanced in their studies to enter the same. When the township is of larger area than a congressional township they may so locate and build two or more such school houses, and open and maintain such an advanced school in each. This they may do upon their own motion and without the special authority required for regular graded schools.

§ 44. SCHOOL HOUSES TO BE NUMBERED.] All the school houses in a township shall be numbered by the board from one upward, and record shall be made of such numbers and thereafter the school houses and schools shall be known and referred to in all matters and in contracts with teachers, and in the minutes and proceedings of the board by this number, so assigned and recorded, which numbers shall be the same for school houses and schools therein, and when more than one school is held in one house they shall be otherwise distinguished by their grade.

§ 45. TIME SCHOOLS SHALL BE TAUGHT.] All the schools in a township shall be taught an equal length of time, as nearly as the same can practically be done, without regard to the diversity in the number of pupils attending the different schools, or in their ages or advancement in learning or the cost of the school. The school board of the township shall not apportion money among the several schools to be there expended, but must manage and disburse the funds for the equal good of all, making the schools equal in value and time, if not in cost.

§ 46. TAXES, RATE OF, ETC.] The school board of the township shall have power to levy upon all the property subject to taxation in the township a tax for school purposes of all kinds, authorized by law, not exceeding a rate of three per cent., or thirty mills on the dollar, in any one year. Such tax shall be levied by resolution of the board prior to the 30th day of June in each year, and no tax shall be levied except by an affirmative vote of ten or more members of the board, and the resolution to levy the tax

and vote thereon shall be entered in the record of the proceedings of the board. The clerk shall immediately thereafter notify in writing the county clerk of the rate of the tax so levied. The notice shall be in substantially the following form :

Office of the Clerk of School Township,
 County, Dakota Territory,
, 188..

To the County Clerk of County, Dakota Territory,
 Sir: You are hereby notified that the school board of school township has levied a tax of mills upon the dollar of valuation of all real and personal property in said school township for school purposes, and you will duly enter and extend such tax upon the county tax lists for collection upon the taxable property in this school township for the current year. The notice of a tax to pay any judgment against the township shall be in addition to the regular tax, and shall be certified to the county clerk under the same general form suitably changed. The county clerk shall make out, charge and extend upon the tax lists against each description of real property and against all personal property, and upon all taxable property of the township, such township school taxes as he is so notified have been levied by the township in which the property is situated and taxable, in the same manner in which the county and territorial tax list is prepared, and deliver it to the county treasurer at the same time.

§ 47. TAXES TO BE UNIFORM.] All taxes for school purposes shall be uniform within and upon the property in each school township and all funds shall be kept and paid by the school treasurer, and he shall keep one general account for the whole township for the entire receipts and expenditures and separate itemized accounts as hereinafter provided for each class of receipts and expenses. His books shall at all times show by entries under proper heads all receipts of funds and payments thereof and enable any person readily to ascertain any balance in any account.

§ 48. TOWNSHIP BOARD TO PROVIDE BOOKS AND HOLD MEETINGS.] The township board shall provide for the treasurer and clerk proper and suitable books of record and account, and such stationery and blanks as may be actually necessary in their duties and the same shall be paid for out of the special school fund of the township. The township board shall hold a meeting once in every calendar month, and at a stated time and place so as to accommodate those having business with them, and may hold stated or special meetings more frequently by resolution of the board, or any member of the board may call such special meeting by giving or sending in writing twenty-four hours notice thereof to the other members. And all meetings of the board shall be public, and all matters requiring the action, decision or order of the school board

shall be acted upon at a meeting of the board when two or more of the members are present, and a record shall at the time be made by the clerk, or in his absence by the director, in the record book, to be kept by the clerk, of all motions, orders, decisions, directions and other proceedings of the board; and no action shall be legal and valid that does not receive the votes of two members of the board. When no resolution of the board declares otherwise the stated monthly meetings will be held at the house of the clerk on the first Saturday in each month, at the hour of seven o'clock, P. M. When assembled in any meeting, stated or special, they may transact any lawful business of the school township.

SCHOOL MONEYS AND FUNDS.

§ 49. FUNDS, HOW DESIGNATED.] All money received by the school township from township taxes, from subscription, donation, sale of property, penalties or any other source whatever, except from apportionment by the county or Territory, shall be called the special school fund; and all moneys apportioned by the county superintendent from the county school fund, or from the Territory of the United States, shall be called the tuition fund. The treasurer shall keep one general account wherein shall be set down upon the debit side all the money he shall receive as such treasurer from all sources whatever, each item of entry showing plainly the source of the particular payment to him, with the date thereof; and he shall set down upon the credit side all the money he shall pay out for all purposes whatever, each item thereof showing to whom and for what purpose each payment was made, with the date thereof. The total of the debit side shall always be balanced by the total of the credit side, with the funds on hand added thereto. At the beginning of every school year he shall open such accounts anew for that year, and the first item shall be an entry on the debit side of the balance on hand, if any, from the preceding year.

TREASURER'S ACCOUNTS, HOW KEPT.] He shall also keep a separate set of accounts of different classes of receipts and expenditures, showing severally the following:

RECEIPTS.

The amount received into the special fund from all sources.
 The amount received by apportionment.
 The amount received from sale of bonds.
 The amount received from all other sources.

EXPENDITURES.

The amount paid for school houses, sites, furniture and appendages.

The amount paid for teachers' wages.

The amount paid for incidental expenses.

The amount paid as interest on bonds.

The amount paid upon debts and liabilities not included in other items.

These several accounts shall be separately kept and are not required to balance, but the accounts for different classes of receipts shall be kept separately from the accounts of the different classes of expenditures, but every entry in each shall fully and clearly designate its source or purpose, with the date.

§ 50. WARRANTS, HOW SIGNED, &c.] The clerk shall draw and sign all warrants for the payment of money for any purpose legally ordered by the board, whether for the regular school purposes of the township, to pay judgments or other authorized payments, except principal and interest on bonds, which shall be paid on presentation of the coupons and bonds as when provided for them. The director shall sign all such warrants, and they shall be paid by the treasurer in the order of their presentation, and when presented, so long as there is any money whatever in the treasury, except money raised and necessary to pay interest on bonds or the principal of bonds, for which purposes sufficient funds shall always be reserved and so applied. Every warrant shall specify the purpose for which the money is paid, and the person, firm or corporation to whom paid. In case the treasurer has no money applicable to the payment of the warrant he shall indorse it, "presented this and not paid, for want of funds," inserting the date of presentment in the blank, and sign the endorsement, and if he has money to pay a portion of the amount he shall pay so much of the warrant, and shall indorse thereon the date and amount paid and add "the balance not paid, for want of funds," and sign the same, and interest at eight per cent. per annum shall accrue upon the amount unpaid of all warrants substantially so indorsed, from the date of such indorsement.

§ 51. PAYMENT OF WARRANTS.] A memorandum shall be made and kept by the treasurer of all such indorsements and of the name and postoffice address of the then holder of the warrant, and whenever sufficient money is received in the treasury to pay these warrants or any one of them, the treasurer shall immediately notify by letter, postage paid, such holder thereof, and interest shall cease on such warrant at the end of seven days after such notice is sent. The treasurer shall reserve and use a sufficient amount of money to pay all such endorsed warrants, from the first money received thereafter for any purpose, except money received or held to pay interest and principal on bonds.

§ 52. SCHOOL TAX.] The county clerk of each county shall,

at the time of making the annual assessment and levy of taxes, levy a tax of one dollar on each elector in the county for the support of common schools, and a further tax of two mills on the dollar upon all the taxable property in 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 corporations in the county in proportion to the number of children resident in the Territory of each, over seven and under twenty years.

§ 53. CERTAIN FUNDS TO BE APPLIED TO SCHOOLS.] All fines, forfeitures and pecuniary penalties, prescribed as a punishment for crime, and collected under the general codes, laws and acts of the Territory; and all money paid into the county treasury for licenses to sell intoxicating liquors; all moneys received by the county as proceeds from the sale of estrays; and all money paid as an equivalent for or as an exemption from military duty, and all moneys due the county for school purposes, in any manner or from any source, shall be faithfully collected by the county treasurer, and shall when collected be paid into the treasury of the proper county and be added to the funds provided in the preceding section for the support of schools, and be distributed at the same time as therein provided.

§ 54. COUNTY TREASURER TO MAKE PAYMENT.] All money received under the two preceding sections, by tax or from other sources, shall constitute the county general tuition fund; and the county treasurer shall, on the first Mondays in January, April, July and October in each year, furnish the county superintendent of public schools with a statement of all the money in the county treasury belonging to this fund, and he shall pay the same upon the order of the said superintendent to the treasurers of the respective public school corporations in the county.

§ 55. APPORTIONMENT OF SCHOOL FUNDS.] The county superintendent shall, as soon as he receives the statement of the county treasurer, provided for in the preceding section, apportion such amounts to the several public school corporations within the county in proportion to the number of children residing in each over seven and under twenty years of age, as the same shall appear from the last annual reports thereof, and he shall immediately notify by mail, or otherwise, in writing, each school treasurer of the amount of money due his school corporation, and he shall draw his orders upon the county treasurer in favor of the several school treasurers aforesaid for the amount so apportioned to each school corporation, and he shall deliver said orders to said treasurers upon their application, taking their receipt therefor.

§ 56. ORDER FOR MONEY NOT TO BE DELIVERED, WHEN.] The county superintendent shall not deliver said order for money so apportioned to any treasurer unless the bond and oath of such treasurer, duly approved and certified, are on file in the office of the county clerk, or, in case of boards of education, a certificate from the secretary or clerk of the board that the treasurer thereof has duly qualified.

§ 57. DUTY OF COUNTY TREASURER TO COLLECT TAXES.] It shall be the duty of the county treasurer to collect the taxes for school purposes at the same time and in the same manner that the county and territorial taxes are 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 upon tax sales of property made for school taxes the same as is provided in the case of other taxes, and he shall receive the same fees as is provided in case of other taxes. He shall collect all delinquent school taxes as by law provided for other taxes, and he shall pay the same over to the school treasurer entitled thereto, less his fees and cost of collecting; and if any county treasurer shall refuse to deliver over on 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.

§ 58. REFUNDING TAXES IMPROPERLY COLLECTED.] Whenever any error may be discovered in any school tax or tax list the township school board may order any money so improperly collected to be refunded, and nothing in this act shall prevent or limit the power of any board of county commissioners, or any mayor and council of any city, or president and trustees of any town or village to exercise all the powers given them by law to equalize tax lists, correct errors and refund any tax or abate any part thereof.

§ 59. CITY SCHOOLS ENTITLED TO PROPORTION OF SCHOOL FUNDS.] The public schools of every city, town or village which may be regulated by special law in the charter thereof, or by other special acts, or by any general act, providing boards of education therefor, shall be entitled to receive their proportion of the county general tuition fund:

Provided, That the clerk or secretary of the board of education thereof shall make report to the county superintendent of the census of children of school age therein, at the time and in the manner prescribed in this act for other school corporations.

§ 60. **MONEYS DONATED, HOW DISPOSED OF.]** Whenever any sum of money shall be paid into the county treasury by an 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 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, and the particular school corporation or corporations to which 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 school board of the proper corporation to the object specified in the certificate of donation. Any school corporation may accept and receive such donations directly, and accurate account shall be made of all such funds by the officers or corporations that handle or use them.

§ 61. **LIABILITY FOR MONEY LOST.]** If by neglect of any treasurer any school money shall be lost to any school township which has been received from the county treasurer, such school treasurer shall refund and pay to such township the full amount of money so lost.

§ 62. **QUARTERLY PAYMENTS OF SCHOOL FUNDS.]** The treasurer of each school township shall apply for and the county treasurer shall pay over to him all of the school money collected for such township, when notified by the county clerk, in writing, that such school treasurer has qualified and filed his oath and bond as provided by law. But one such notice of qualification is required during the term of each school treasurer, and when a new one is appointed for any reason, or the incumbent has become disqualified, the clerk of the proper school board and the county superintendent, shall so inform the county clerk, who shall also inform the county treasurer. Such payments shall be made four times per year, of the amount on hand as reported by the treasurer. Any person who so draws school money from the county treasury who is not at the time a duly qualified treasurer of the school corporation for which he draws the money, and authorized to act as such, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine not less than twenty-five dollars and not more than double the amount of the money so drawn if beyond twenty-five dollars, which fine shall, when collected, be paid into the special school fund of the township for which the money was unlawfully drawn.

§ 63. **WHEN TREASURER GUILTY OF EMBEZZLEMENT.]** Every treasurer of a school township who shall loan any portion of the money in his hands belonging to such township, whether for consideration or not, or who shall expend any portion thereof for his

own or any other person's private use, is guilty of embezzlement, and shall upon conviction be punished as provided by law. And no treasurer of a school township shall pay over or deliver the school money in his hands to any officer or person, or to any committee to be expended by him or them, but all public school fund, shall be paid out only by the proper treasurer as herein before provided.

TOWNSHIP SCHOOLS.

§ 64. CENSUS OF SCHOOL CHILDREN.] The clerk of every school township and every board of education and school corporation shall make or cause to be made, each year, an enumeration of all the children who are residents within the limits of the corporation on the first day of June, who are over seven and under twenty years of age, but shall exclude from such enumeration all such persons who are married. The clerk of the school township, in making such enumeration shall first, in a column, list the names of parents, guardians or heads of families, having charge of such child or children, but only one in each case—first the father, if living, then the mother, if he is not living, and the same in other cases. Opposite each name in appropriate columns, he shall enter the names of all the children in charge of the person so named, the males in one column and the females in another column. Upon taking the first enumeration he shall ask each person so having children in charge to which school he or she desires to be attached within the township, and the school selected shall be set down by its number in a proper column. All such persons so selecting a particular school shall be considered as forming and belonging to the particular school so selected, and they shall not be allowed to attach themselves to any other school without permission of the township board, upon showing cause for the change. At subsequent enumerations the same inquiry shall be made of the parent, guardian, or other person having charge of children, whose residence has been changed or whose child or children have become subject to enumeration since the last enumeration; and in case of change in the location of a school, or of a new and additional school house, in the township, the enumerator shall make the same inquiry and note the selection of all persons whose school conveniences or advantages have been affected by any such change.

§ 65. SCHOOL DISTRICTS ABOLISHED.] There shall be no districts or sub-districts or any territorial sub-divisions of a school township, but the only division shall be this of the people, and persons of school age, among and between the several schools, as patrons thereof, and these shall be based, so far as is convenient and practicable, upon the free choice of the parent, guardian, or

other person having in charge the children of school age. And the township board shall permit changes from one school to another of any such persons, and their families, being school children, for reasonable cause, based upon convenience or the advantage of the pupil. But the township board may upon the recommendation of the moderator or other evidence, transfer any pupil, or all the pupils, in any family, from one school to another in order to improve the discipline, the advantages or the classification of pupils or schools, and may so change a part or all the children from any family, but they shall take care to wrong no one in so doing, but shall take all such action with care, for good cause, and after due consideration.

§ 66. WHO TO BE VOTERS, ETC.] The persons so selecting and listed as belonging to and forming a particular school, who are parents, guardians or other persons having in charge children of school age, shall be the voters at the school meeting, and such voters or patrons of a school, and the children belonging to the school, shall be known as a school under the number assigned it by the school board of the township, and for convenience are so referred to in this act; and may be so referred to and designated in all contracts, records, notices and other acts and proceedings, as school house No. —, school No. —, meeting of school No. —, and like designation in all cases. All persons who are included within the definition of voters at such meetings, men and women alike, are and shall be recognized as voters therein.

§ 67. ANNUAL MEETING. PROCEEDINGS.] The voters so defined and qualified and belonging to a particular school, shall meet annually on the last Saturday in August, and elect one of their number moderator of such school, who shall before entering upon duty take and subscribe an oath faithfully to discharge the same, which shall be certified by the officer administering it, and shall be filed with the clerk of the school township within ten days after the election, which oath and filing shall be the notice to the township school board of the election of such person as moderator. In case of failure to elect such moderator or of the moderator to qualify and give notice, or in case of a vacancy in the office of moderator for any cause, the township school board shall forthwith appoint a moderator for said school; but any moderator so appointed may be removed and another appointed in his place upon a petition of more than one-half of the persons so entitled to vote at the school meetings thereof. Upon the organization of a township for school purposes and the enumeration for each school, and upon the location of a new and additional school, the township school board shall call and give ten days notice of a special meeting for each school at which said voters shall elect a moderator to hold until the next annual school meeting and ten days thereafter,

unless the new moderator shall qualify before that time, and all moderators whether elected or appointed in any such way or for any term shall within ten days qualify as above provided. The moderator of each school shall preside at all meetings of the voters connected therewith and record their proceedings; he shall also act as the organ of communication between the inhabitants and voters and the school board of the township. In the absence of the moderator or when he declines to preside, any voter at the school meeting may on motion be chosen to preside, and may perform all the duties of the moderator, if necessary, in the execution of the directions of the meeting. The moderator shall take charge of the school house and all property belonging thereto, under the general direction of and in concurrence with the school board of the township, and preserve the same, and shall make all temporary repairs of the school house, furniture, fixtures, fences and out-houses, and provide the necessary fuel for the school, and report the cost thereof to the school clerk of the township for payment by order of the township school board. He shall visit and inspect the school from time to time, and when necessary may exclude any refractory pupil therefrom; but the exclusion of any pupil from the school for disorderly conduct shall not extend beyond two months and may in the discretion of the moderator be for any shorter period. If a pupil be incorrigible the teacher may suspend the pupil from school for not more than five school days, but the fact must be reported to the moderator with the reasons therefor within two days after such suspension, whereupon the moderator must decide and order what further action shall be taken, and he may order the pupil to be restored, reprimanded, punished or excluded as above provided. The decision of the moderator in excluding a pupil from school shall be subject to appeal to the township school board, whose decision must be given within ten days after notice in writing to the school clerk of such appeal and their decision shall be final.

§ 68. POWERS OF ANNUAL SCHOOL MEETING.] The voters at school meetings as above defined may hold other school meetings at any time upon the call of the moderator or any five voters. Ten days notice shall be given of all meetings by posting notices thereof in three of the most public places in the vicinity, and the moderator shall cause timely notice to be given of the annual meeting; but no meeting shall be illegal for want of such notice in the absence of fraud, and the legality of such meetings and their proceedings, if called in question, shall be determined by the school board of the township, subject to an appeal to the county superintendent whose decision shall be final. All such school meetings shall have power:

1. BRANCHES TAUGHT.] To determine, what if any, branches in addition to those required by law for common schools, they desire shall be taught in such school, and the time at which such school shall begin and be taught ;

Provided, That all the tuition fund appropriated to the township shall be expended within the school year for which it is apportioned, and for all the schools thereof.

2. FILL VACANCIES.] To fill vacancies that may occur in the office of moderator or elect another in place of one appointed.

3. REPAIR SCHOOL HOUSES.] To direct such repairs as they may deem necessary in their school house and in its furniture and apparatus, and other belongings.

4. MAY PETITION.] To petition the township school board for the removal of their school house to a more convenient location, for the sale of the school house and lands therewith belonging, and for the erection of a new one, and upon any other subject connected therewith.

5. MAY PROTEST AGAINST TEACHER.] To protest against the employment of any particular teacher, and the township board shall not employ for that school any teacher whom the meeting decides they do not wish employed. And at any time after the commencement of any school, if any meeting, or if a majority of the voters belonging to such school, petition and ask the dismissal of the teacher, the township school board may dismiss such teacher, but only upon due notice and after good cause shown ; and such teacher, if not otherwise lawfully debarred, shall be entitled to pay for services rendered.

§ 69. ESTIMATE TO BE FURNISHED.] When such meetings shall so petition the township school board in regard to repairs, removal or erection of a school house, they shall also furnish to such board an estimate as near as practicable of the probable cost of such repair, removal or erection. And such school board shall consider the petitions from all the school meetings and voters thereof in the township, and have a careful regard for the need of new and additional school houses ; and nothing herein contained shall prevent the board from exercising a sound discretion as to the propriety or expediency of making such repairs, removals or erections. The board shall in all expenditures and contracts have reference to the amount of moneys which shall be subject to their order during the current school year, for the particular expenditures in question ; and shall particularly expend for teachers' wages each year all that is apportioned to the township for that purpose, and in all things faithfully endeavor to give equal school advantages, terms and accommodations, as near as may be practicable, to all the school children of the township ; and they shall build proper pub-

lic school houses for each school as soon as resources sufficient may be properly secured.

GRADED AND HIGH SCHOOLS.

§ 70. GRADED SCHOOLS.] Besides the two room school houses and advanced schools which the township school board is authorized to locate, build and open under section 42 of this act, and in addition thereto, whenever a school township has within and belonging to it four or more common schools, and owns, and has well furnished, good and sufficient school houses for them, the township school board may submit to the voters belonging to the several schools the question, whether a graded school shall be established and maintained for the township. The proposition shall be accompanied by a careful estimate of the probable cost of the building proposed for such school including furniture therefor and the cost of the site, and the proposed location of such school, with a statement of the method proposed for raising the necessary funds for building and furnishing the school house. The proposition shall be made in writing and copies of the same signed by at least two members of the school board, shall be delivered to the moderator for each of the several schools, and shall fix a day, at least forty days in advance, when the school meetings shall be held to consider the same. The moderator for each school shall at once, and not less than thirty days before such meeting, post notices of the same stating plainly the time, place and purpose of the meeting, in not less than five of the most public places in the vicinity and within the school territory. At the meeting the question shall be presented by the moderator or some voter in his place, and after due consideration, the vote shall be taken before adjournment. If a majority of the voters entitled to vote at the school meeting favor the proposition it shall be declared carried, and if not it shall be lost, and no such proposition shall be declared carried without the affirmative vote of a majority of all who would be entitled to vote, if present at the meeting. The moderator shall certify the action of the meeting, and the number of affirmative and negative votes to the township school board. If a majority of the school meetings so authorized to be held in the township and of the school voters in the township favor the proposition, the township school board shall execute the plan proposed as nearly as may be, and shall not increase the total cost of site, school building and furniture more than ten per cent. beyond the estimate submitted under any pretense or claim of necessity whatever, unless previously authorized thereto by a majority of the schools and of the voters of the township.

§ 71. PROCEEDINGS TO PROCURE GRADED SCHOOLS.] Instead of submitting the proposition for a graded school to the several school

meetings for their consideration and action, a majority of the voters entitled to vote at any such meeting may sign and assent thereto in writing. This assent shall be signed upon and to the copy of the proposition made by the board, which shall contain all the points required in the preceding section. These several propositions shall be in all cases identical in terms and conditions, whether to be voted upon or signed and assented to. When such assent is duly signed the paper shall be filed with the clerk of the school township, and shall have the same authority and legal effect as an affirmative vote of the school meeting duly called and held as required by the preceding section toward adopting the uniform proposition so submitted. Part of the schools may so assent in writing and part may act upon the proposition by the meeting duly called; and when the township school board has so received by vote of meetings or written assent the affirmative vote of a majority of the schools and a majority of the school voters of the township, in favor of a graded school, they are authorized to proceed as in the preceding section provided.

§ 72. CONCERNING GRADED SCHOOLS.] The graded school herein provided shall be more advanced in grades and studies, and in the learning, skill and experience of their teachers, than the common or graded schools otherwise provided for in this act. The school board of the township may, in the corporate name of the school township, receive and use donations of land for sites, and money and materials for erecting and furnishing buildings for such graded schools, from individuals, communities, towns, villages or other bodies or persons, and may accept and use buildings and other property suited to such use. When such donations are sufficient to supply the site and buildings without cost to the township, the board may expend the money necessary to furnish the building and its different rooms, and may open and maintain the graded school without submitting the question to a vote. The graded schools shall not be opened and taught more than six months in one school year without authority from a majority of the schools and voters to be obtained in the manner hereinbefore provided for obtaining authority to erect and open a graded school, but when the authority is once given it cannot be reduced for two full school years thereafter by action of the schools or the voters, but the board of the school township may so reduce it.

§ 73. ADVANCED SCHOOLS.] When no graded school of any kind is established and maintained in a school township the school township, may employ a teacher more advanced in learning, skill and experience in one or more of the common schools, wherein accommodations are ample and the attendance of primary pupils is not large, and may authorize the more advanced pupils from two or more of the schools to attend one of such schools. Such

schools shall not be taught longer than the other common schools of the township, and the board must take care not to overcrowd such schools to the detriment in any manner of the comfort, thorough instruction and progress of pupils in the primary classes. The township board is further authorized to open and have taught, one or more advanced schools for the admission and instruction of pupils from all the township for the period of two months after the regular common schools close, or before they open, or during the vacation therein, if the terms of other permit it, and to these schools shall be admitted the more advanced pupils from other schools under such rules as the board may prescribe. The board may also employ temporarily and for a limited term each year, a skilled instructor in penmanship, who shall instruct the pupils of the schools for not more than two hours upon any day, visiting as many different schools each day as practicable, and the several teachers in the township may be required to meet at one school house and receive such instruction in penmanship for three hours a day for not less than three Saturdays in the school year.

§ 74. TRANSFERRING PUPILS.] The township school board is further authorized, upon the recommendation of a moderator, to transfer any pupil, whether advanced or not, for convenience, better discipline, the good of the schools or other good cause from attendance upon one school to another; and when a pupil has, from sickness or other unavoidable cause, been prevented from attending the school to which he belongs for a considerable period, so as to affect his classification and advancement, the board may authorize such pupil to attend another school a reasonable time if one be in session, or may provide for his admission to a school in another township. When a school in another township is more convenient for the pupils from any family or any part of them, the board is authorized to contract with such township for the admission of such pupils to the schools thereof, and to pay for the same out of the funds of the township; but they shall not pay such tuition for a longer period than the schools are taught in their own township, and not less than the time for which schools are provided by law to be kept open. The board of any township may also admit non-resident pupils into schools in their own township upon such contract, taking care not to overcrowd their own schools. The school board may also admit any other pupils to the primary or graded schools upon paying in advance the tuition per month they may fix.

§ 75. JOINT GRADED SCHOOLS.] The school boards of two or more distinct municipal corporations for school purposes shall have power, when thereunto authorized by their respective townships as herein before provided, to establish a joint graded school or

schools, or such modifications of them as may be practicable, and provide for admission into them from the primary schools of the respective corporations of such pupils as are sufficiently advanced for such admission. The school boards of the corporations shall jointly have the care and management of such graded schools. They shall purchase suitable grounds and erect proper buildings thereon, and the title to all such property and the furniture and apparatus, necessary and required for such purpose, shall vest jointly in the corporations so establishing the graded school. The boards shall jointly select and employ the teachers therefor. The several corporations shall pay equal shares of all costs and expenses for such schools unless they agree upon other terms, which they are authorized to do. Such schools shall be free from charge for tuition and equally open to all qualified pupils from all parts of each corporation uniting in establishing and maintaining them.

§ 76. PETITION BY INHABITANTS OF TOWNSHIP.] The inhabitants of any part of a township who have ten or more children of school age, may petition the township school board showing in their petition that they have that number of children of school age, and that none of them live nearer than a mile and a half to any school house in the township, that they are permanent residents and desire the location of a school and the building of a school house to accommodate their community. The board shall carefully consider the petition and shall grant and carry out its requests so far and so soon as they are able to do so with the resources at their command and with equal regard to the requirements of other parts of the township. From a refusal to grant any such request the petitioners may appeal to the county superintendent of public schools, who shall fully hear both parties and decide; an appeal may be taken from his decision to the Territorial superintendent. If the final decision be in favor of the petitioners the township board shall proceed as early as practicable to locate and open a school and when the resources can be provided, to build and furnish a school house proper and convenient for the petitioners and for other residents near them.

§ 77. LOCATION OF SCHOOL HOUSES.] The school board of a township shall not locate, build or remove any school house nearer than one mile to any boundary of the school township, and not nearer than two miles to any other public school house; but this provision shall not apply to school houses in cities, towns or villages, whether incorporated or not, which have seventy or more resident persons of school age, nor to union graded schools belonging to two or more corporations.

§ 78. MEMBERS OF SCHOOL TOWNSHIP BOARDS—HOW CHOSEN.] When there are three or more schools in any school township, but a single member of the township school board shall at any time

be elected, appointed or otherwise chosen, or shall qualify and hold office as one of the board, from the same school or the Territory thereof; and when there are two schools but one shall so hold from each and the other shall be chosen or appointed from the Territory not included by any school; and when there is but one school established in a township but one member shall be chosen therefor and the remaining members from the Territory not so included. When an officer is elected or appointed contrary to the provisions of this section such election or appointment is void, and it shall not affect the title to office or the right to act of the officers who were previously elected and qualified.

§ 79. USE OF SCHOOL HOUSE FOR OTHER PURPOSES.] If a majority of the legal voters of any school desire the use of the school house of such district for other purposes than common school when unoccupied for common school purposes, the township school board may, upon such application, authorize the moderator for such school to permit the people under careful restrictions to use the house for any proper purpose, giving equal rights and privileges to all religious denominations or political parties, without any regard whatever to the numerical strength of any religious denomination or political party in such school township or county.

TEACHERS AND SCHOOLS.

§ 80. EDUCATIONAL PAPERS.] The clerk of a school township is authorized to subscribe for and take school or educational periodicals and publications to the value of two dollars a year for each school in the township, but not exceeding in all ten dollars a year for the whole township, and he shall draw a warrant upon the treasurer of the township for the amount of such subscriptions, and the director shall sign such warrant and the treasurer pay it out of the special fund. When but one publication is so taken it shall be a weekly and as much as three dollars may be paid therefor; and all periodicals and publications shall be circulated among the teachers of the township at township institutes and otherwise, and shall be carefully preserved and delivered to other teachers or returned to the clerk, and the board may make rules governing the use and circulation of the same. To further encourage educational study the township board is further authorized to pay each teacher in its employ who teaches four months or more in the township in any school year, one dollar each year, if such teacher satisfies the board that he subscribes and pays two dollars or more in the year for educational periodicals taken by him.

§ 81. TOWNSHIP INSTITUTES.] At least one Saturday in each month during which the public schools may be in progress shall be devoted in each township to township institutes or model schools

and normal instruction and matters relating to methods of teaching, organizing, classifying and governing schools and for the improvement of teachers, and two Saturdays may be so used at the discretion of the township board. Such institute shall be presided over by a teacher, one of the board or other person designated by the school board. Each teacher shall attend the full session of each institute in the township, contemplated herein, and participate in the duties and exercises thereof, or forfeit one day's wages for every day's absence therefrom, unless such absence is occasioned by sickness of the teacher, or of others to whom their attention is due. When the county superintendent is present he may preside at and conduct such institute, and it is his duty to visit and inspect the schools of a township immediately before his meeting with such institute and there give special attention to the defects and needs of the instruction and government of the schools.

§ 82. WHO ENTITLED TO SCHOOL PRIVILEGES.] The common schools provided for by this act shall be at all times equally free, open and accessible to all children over seven and under twenty years of age, residents of the school townships where they are held, or entitled to attend the school under any special provision of this act, subject to the regulations herein made, and to such as the several school boards of the townships may prescribe, which shall always be equal and just, and never in conflict with the law.

§ 83. BRANCHES TO BE TAUGHT.] In every common school there shall be taught to all pupils of sufficient capacity to properly attend to the same, the following branches of a common English education: Orthography, reading, writing, geography, arithmetic, English language lessons and grammar, and United States history, unless it is excepted by the board in any particular school; or so many of said studies as the ability and advancement of each pupil will permit in the judgment of the teacher; also such other branches as may be required in any school by vote at the school meeting, or may be agreed upon by the school board and the teacher:

Provided, That a more advanced course of studies may be prescribed by the township boards for the graded schools herein provided.

§ 84. TEACHER'S QUALIFICATIONS AND CONTRACT—CONDITIONS.] Teachers shall be employed only upon the exhibition of a certificate valid in the county where employed, and then only upon a written contract signed by the teacher and at least two members of the township school board which shall specify the date at or about which the school shall begin, the length of time it shall continue, the wages per month, and the time of payment thereof; and said contract shall be so signed in duplicate and one copy filed in the office of the clerk and the other retained by the teacher.

The following conditions shall be understood as forming a part of every such contract whether expressed therein or not:

1. The teacher shall not hold school upon any legal holiday, but such days shall count as part of the term and the teachers be paid therefor, but such pay shall not be drawn for any Saturday or Sunday.

2. School shall be adjourned during any time that an institute is held in the county, to attend which the teachers have been notified by the county superintendent, and the teacher shall draw pay for and have counted as part of the term one-half day for every day's actual attendance upon the institute as certified by the conductor of the institute or county superintendent.

3. Teachers shall receive into their schools pupils transferred thereto by order of the township board or admitted by its authority.

4. The teacher is to send the notices, keep the proper entries in the register and make the reports as and when required by law; and the school corporation shall promptly furnish, without cost to the teacher the blank forms for such reports and furnish for use a proper register prepared so that the required facts and statistics can be kept in an orderly manner.

§ 85. CLERK TO PROVIDE TEACHER'S REGISTER.] The clerk of every school township shall provide one suitable school register for each school therein and keep the same as a part of the records of his office, except during each term of school, when the teacher shall keep said register and record therein each day, the attendance of each pupil and the absence of those enrolled, and all other items necessary for making the report in the next section required.

§ 86. TEACHER'S REPORT.] Every teacher of a common school under this law shall at the expiration of each term, immediately make out full duplicate reports, and deliver one copy thereof with the register to the school clerk and one to the county superintendent. Said reports shall show the names, ages and sex of all pupils admitted during such term, the branches taught, the studies pursued by each pupil, the text books used, the number of days taught, the number of days each pupil was present, the average daily attendance, the date when school began and ended, the salary per month, including board, and information concerning the school and property, and until such report shall have been so filed with the clerk the school board shall not pay more than ninety per cent. of the wages for such teacher for his or her services as such for the time required to be covered by such report.

§ 87. TEACHER TO GIVE NOTICE.] Every teacher, on commencing a term of school, shall give written notice to the county

superintendent of the time and place of beginning such school, and the probable time when it will end.

§ 88. REPORTS, ETC., TO BE KEPT IN ENGLISH LANGUAGE.] All reports and records of school officers and proceedings of all school meetings shall be kept in the English language, and if any money belonging to any school township shall be expended for supporting a school in which the English language shall not be taught exclusively, the county superintendent or any taxpayer of the school corporation, may in a civil action, in the name of the corporation, recover for the corporation all such money from the officer or officers so expending it or ordering its expenditure.

§ 89. PENALTY FOR DISTURBING SCHOOL.] Every person, whether a pupil or not, who shall willfully molest or disturb a public school when in session, or who shall willfully interfere with and interrupt the proper order or management of a public school, by acts of violence, boisterous conduct or threatening language, so as to prevent the teacher or any pupil from performing their duty, shall, upon conviction thereof, be punished by a fine not exceeding twenty dollars, or by imprisonment in the county jail not more than ten days, or by both such fine and imprisonment.

§ 90. FINE FOR INSULTING TEACHER.] If any parent, guardian, person having a child in charge, or other person, from any cause, fancied or real, in the presence of a school, whether at intermission, recess, during its sessions, or before or after the day's session, in the presence of a considerable number of the members of the school, shall upbraid, insult or threaten, the teacher of such school, such person shall upon conviction thereof, be punished by a fine not exceeding twenty-five dollars.

§ 91. THE BIBLE.] The bible shall not be excluded from any public school, nor deemed a sectarian book. It may be read in school without sectarian comment, not exceeding ten minutes daily, and no pupil shall be required to read it contrary to the wishes of his parent or guardian or other person having him in charge. The highest standard of morals shall be taught, and industry, truthfulness, integrity and self-respect inculcated, obedience to law enjoined, and the aims of an upright and useful life cultivated.

PROCEEDINGS TO OBTAIN SITES FOR SCHOOL HOUSES.

§ 92. OBTAINING SCHOOL HOUSE SITE.] The school board of any school township may take by purchase and deed of conveyance, in the corporate name thereof any real property not exceeding two acres in area, legally chosen as a site for a school house by a resolution of the township school board, and may hold and use such tract for public school purposes but for no other pur-

pose. If the owner of such real property refuse or neglect to grant and convey such site to the school corporation, or is a non-resident of the county, or is absent and cannot be conveniently found, the county clerk of the county in which the real property is situated shall, upon the written application of the township school board, after ten days' notice to the opposite party, or if they are non-residents, or absent or cannot be conveniently found, by notice printed for four weeks in succession in some newspaper published in the county, describing the tract to be taken, and naming the owner, appoint three resident freeholders of the county as assessors, who shall be sworn to faithfully perform their duties, and they shall then assess the damages the owner of such tract will sustain by taking the same for school purposes and uses, and said assessors shall directly file their written report with the county clerk, giving an exact description of the tract taken for the site and the amount of damages so assessed. If said school board shall, before taking said real property for school uses and purposes, deposit in the name of the school township, with the county treasurer to the credit and for the owner of the tract taken, the amount of money so assessed as damages, they shall then be fully authorized to permanently use said premises for school purposes;

Provided, That the report of the assessors may be reviewed by the district court upon written exceptions filed by either party in the clerk's office of the district court within twenty days after the report of the assessor is filed in the county clerk's office, but this shall not delay or prevent the use of the tract for school purposes. The additional amount, if any, found in damages, shall be paid by the school township; *Provided further*, That no site, except in a village, town or city, shall be thus taken within forty rods of any residence, the owner of which objects to its being placed nearer, and in no case in any orchard, garden or public park.

§ 93. SITE TO BE USED FOR SCHOOL PURPOSES.] The title acquired to such school site shall be for school purposes only; and if not used for maintaining a public school thereon, for two successive years, the title shall revert to the owner of the fee, upon re-payment of the original sum paid, with the value of improvements made by the school corporations, and without interest.

REPORTS.

§ 94. COUNTY SUPERINTENDENT'S REPORTS.] The county superintendent of each county shall make full and complete report to the superintendent of public instruction on or before the first day of September in each year, of the school statistics of the preceding school year, showing for each school corporation in the county the following facts and statistics:

The number, name or other proper designation of the school corporation.

The number of graded schools.

The number of ungraded schools.

The average number of days school was taught.

The number of teachers employed, males, females, and total.

The average compensation paid teachers per month, males and females, separately.

The number of persons resident, between the ages of seven and twenty years (excluding those married,) showing males, females, and total.

The number enrolled in the schools.

The per cent. of attendance of those enrolled.

The average cost of tuition per month for each pupil.

The number of school houses erected during the year.

The number of school houses, for graded, and for ungraded schools.

The total value of school houses, including sites and furniture.

The total sittings in school houses.

The total par amount of bonds outstanding.

The average rate of interest paid thereon.

The total amount paid to and due the officers of school corporations for services during the year.

The total amount paid the county superintendent for services, including expenses during the year.

The following financial report :

RECEIPTS.

1. The total amount on hand at beginning of the year.
 2. The amount received into the special fund from all sources.
 3. The amount received by apportionment.
 4. The amount received from sale of bonds.
 5. The amount received from all other sources.
- The total school receipts.

EXPENDITURES.

1. The amount paid for school houses, sites, furniture and appendages.
2. The amount paid for teachers wages.
3. The amount paid for all incidental expenses.
4. The amount paid as interest on bonds.
5. The amount paid upon other debts and liabilities not included in any other items.

6. The balance on hand at end of year.

The total expenditures, not including balance on hand.

He shall also report all private schools, academies and colleges, within his county, in a table separate from all public schools, showing the name of the school or institution, if incorporated, and if not, by brief description, the name of the principal or person, officer or president in charge, the number of teachers employed, the number of pupils in attendance during the year, the value of the buildings and permanent property, the value of the endowment.

§ 95. CLERK'S REPORT.] The clerk of each school township shall on or before the first day of August in each year, make, sign and transmit or deliver to the county superintendent, a report in writing, covering the preceding year and including all the facts and statistics of the school townships which are required by the preceding section to be included in the county superintendent's report, and in the same order therein required, except any item therein peculiar to the county and not belonging to the township. He shall also report the branches studied in the graded and ungraded schools separately; the names and addresses of the township school officers and the dates when their terms severally expire; and all other facts and statistics which the county superintendent may require for his report to the Territorial Superintendent.

§ 96. TREASURER'S REPORT.] On or before the 15th day of July in each year the treasurer of each school township shall make, sign and deliver to the clerk of the same, and deliver or transmit to the county clerk a report in writing which shall cover all the financial accounts and transactions of the school township for the preceding school year, and shall show by items the following:

RECEIPTS.

1. Total amount on hand at the beginning of the year.
2. The amount received into the special fund from all sources.
3. The amount received by apportionment.
4. The amount received from sale of bonds.
5. The amount received from all other sources.

The total school receipts.

EXPENDITURES.

1. The amount paid for school houses, sites, furniture and appendages.

2. The amount paid for teachers' wages.
3. The amount paid for all incidental expenses.
4. The amount paid as interest on bonds.
5. The amount paid upon debts and liabilities not included in any other items.
6. The balance on hand at the end of the year.

The total expenditures, not including balance on hand.

The total expenditures added to the balance on hand shall equal the total receipts, but the balance on hand must not be added as part of the total expenditures. He shall also supply the clerk of the school township with any other fact which his books should show required by the clerk for his report.

§ 97. SCHOOL BOARD TO EXAMINE TREASURER'S REPORT.] Before the date for the treasurers' report or upon that date, the township school board shall hold a session, to be called by the clerk, and the treasurer shall then submit to the board all his books, accounts and vouchers, and the board shall carefully examine the same and the items thereof and compare the report therewith, and if they find the same to be correct and to agree they shall indorse upon triplicate copies of the report duly signed by the treasurer, the following: "Examined, compared, and found correct this day of, 18. . ." and sign such indorsement upon each copy. They shall also cause the clerk to make entry in the record book of their proceedings the fact of such examination and comparison, and the fact whether or not the books, accounts, vouchers, and report are found correct. If the reports are so found correct one copy shall be immediately delivered to the clerk of the school township, who shall receipt in writing therefor; another shall be immediately transmitted or delivered to the county clerk; and the third shall be retained personally by the treasurer. The clerk of the school township shall copy the report received by him in his record book, together with the indorsement thereon, and file it in his office. If the county clerk fails to receive the copy sent to him the clerk shall upon notice send him a certified copy of the report on file in his office, together with the indorsement.

§ 98. TREASURER'S ACCOUNT.] Every county treasurer shall keep a regular account with each school corporation in which he shall charge himself with all taxes collected by levy of the township board, and all sums apportioned to the township by the county superintendent or other authority, and all other sums received for the school township; and he shall credit himself with all payments made to the treasurer of the school township, distinguishing between the items paid by apportionment, those from

local taxes, and those from other sources. To the secredits, to balance the account, he shall add all items for legal fees for collection and other duties. These accounts shall be kept for each school year separately, beginning July 1st and ending with June 30th of the following year. At the first meeting of the board of county commissioners after the close of a school year he shall submit an abstract of these several accounts.

§ 99. COUNTY COMMISSIONERS TO EXAMINE REPORTS OF TREASURER'S.] The board of county commissioners shall, at its first session after the close of every school year, examine the reports of the treasurers of school townships and compare them with the accounts of the county treasurer, presented in accordance with the preceding section. If the reports are found correct, they shall be passed and approved accordingly; and to every treasurer of a school township whose report is so approved, the board of county commissioners shall order the payment from the county general fund the sum of not less than ten nor more than twenty-five dollars, based on the relative amount of money handled and duties performed by each. The county superintendent shall also present the reports of the clerks of the school townships, and the financial statements presented therein shall be also examined and compared with the reports of the treasurers of the school townships and the account of the county treasurer, and so far as found correct and approved, the several clerks shall be paid the same amount as is paid to the school treasurers of their respective townships, all upon warrants drawn upon the county general fund. The clerks' reports shall be retained in the files of the county superintendent's office, and those of the treasurers shall be filed by the county clerk. The superintendent shall have access to and the privilege of examining all treasurers' reports, and the accounts of the county treasurer with school corporations. The county board shall publish in its proceedings a statement of the school township treasurers' reports that it approves, and a list of those disapproved or not received.

§ 100. DUTIES OF COUNTY SUPERINTENDENT.] The county superintendent shall actively endeavor at all times to secure the several reports of the treasurers and clerks of school townships to be correctly made and to be delivered within the time required by law; and to promote this he shall so far as appears advisable or necessary visit the several treasurers and clerks beforehand, and carefully examine into their records, files and accounts, and shall instruct them in the correct keeping, entry and statement of the same. Immediately after the board of county commissioners has passed upon the accounts and reports of the treasurers and clerks, as required in the preceding sections, the county superin-

tendent shall visit and inspect the accounts and records of all those whose reports have not been received and approved, and endeavor, by his inspection, advice and aid, to secure the prompt forwarding of their respective reports. He shall report in writing to the county clerk the fact and date of every such visit, and a brief statement of the condition in which he finds the particular office in these respects. The reports shall be made at as early a day as practicable, and shall include every such delinquent officer.

§ 101. DUTIES OF COUNTY COMMISSIONERS.] At the next session of the board of county commissioners the county clerk shall lay before the board all these reports of inspection, and all additional reports received from such officers, and the board shall carefully examine each case upon all the facts that can be ascertained from the county superintendent, the county treasurer, and the several officers from whom such reports are due. If it be found that any treasurer of a school township has willfully or carelessly neglected and failed, by that time, to account for all school funds and make report thereof to the proper officers as hereinbefore required, his office shall be declared vacant, by resolution of the county board, and a successor appointed as provided by law. And if it be found that any clerk of a school township has willfully or carelessly neglected and failed by that time to make a proper report of the facts and statistics required in his report for the preceding school year, his office shall be declared vacant, by resolution of the board of county commissioners, and a successor appointed as provided by law.

§ 102. SAME.] The clerk of a school township may be excused from making that part of his report which depends upon the financial report by the treasurer to him, if he shows that after reasonable effort he has failed to receive such report. No other notice but this law and the visit of inspection by the county superintendent shall be necessary to any such delinquent treasurer or clerk, and the board of county commissioners shall at their first session, after the failure to report correctly was found, proceed to determine every such case without adjournment beyond that session. The board shall accept no excuses except those which are a reasonable compliance with the law, or serious or prolonged illness, or personal calamity or misfortune of a serious nature, or the accidental loss or destruction of books and records, or like unavoidable cause. Nothing in this act shall be taken to limit the application of chapter XXII of the Political Code to any of the officers of a school township, and an appeal may be taken to the District Court from the action of the board of county commissioners declaring an office vacant as hereinbefore provided; but in every such case the declaration of vacancy shall operate as a suspension of the officers, and the office shall be temporarily filled by appointment.

§ 103. SCHOOL CLERK'S REPORT.] In every school township the clerk thereof shall make copies of his report when it has been approved, and certify the same and send or deliver one to each of the moderators therein who shall submit the same for information to the meeting of the school, or cause the same to be done, and shall keep the same for the inspection of any voter or taxpayer.

§ 104. SCHOOL RECORDS SHALL BE OPEN TO INSPECTION.] All reports and all books, records, vouchers, contracts and papers of all kinds relating to school houses, schools and school business in a township in the office of the clerk or treasurer, shall be at all times open to the inspection of the director, who shall advise and aid toward securing correct records and accounts and legal reports; and they shall likewise be open to the inspection of the territorial and county superintendent, and any particular paper or record shall be exhibited at reasonable hours to the examination of any voter or taxpayer.

§ 105. DISTRIBUTION OF TERRITORIAL SUPERINTENDENT'S REPORT.] The superintendent of public instruction shall cause his report to be printed in the month of December in each year. In those years when the report does not immediately precede a session of the Legislative Assembly, not more than three hundred copies shall be printed, and one copy each shall be sent to the county superintendent of each organized county, to the chief educational officer or board of every State and Territory, and not less than two copies to each territorial officer, while not less than twenty copies shall be preserved in the office, and other copies may be given to libraries and prominent educational organizations and representatives. In the year to be followed by a legislative session the above number shall be printed, and an additional number sufficient to furnish not less than ten copies each to all members of the Legislative Assembly. The Territorial Auditor shall audit and draw warrants upon the Treasurer for the payment of reasonable and just accounts therefor.

MISCELLANEOUS PROVISIONS.

§ 106. SCHOOL MONTH.] A school month shall consist of twenty school days, a school week of five school days, and no Saturdays shall be counted as school days.

§ 107. PENALTY FOR FALSE REPORT.] Every clerk or treasurer of a school township or district who shall willfully sign or transmit a false report to the county superintendent, or willfully sign, issue or publish a false statement of facts, purporting or appearing to be based upon books, accounts or records, or of the affairs, resources and credit of the school township, shall upon conviction be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding fifteen days in the county jail.

§ 108. PENALTY FOR REFUSING TO DELIVER BOOKS, ETC.] Every clerk or treasurer of a school township or district, who shall willfully neglect or refuse to deliver to his successor in office, whether elected or appointed to a regular term, a vacancy declared, or temporarily during his suspension, all records, books, papers, accounts, money and other property belonging thereto and to the township, shall, upon conviction, be fined not less than five dollars nor more than fifty dollars; and the successor shall prosecute without delay upon the official bond of such officer for the recovery of all such money.

§ 109. OFFICER TO QUALIFY BEFORE PERFORMING DUTY.] No officer of a school township or district shall perform any duties of the office, nor receive any of the property, money, books or papers belonging to the office, nor any money from the county treasurer, or warrant therefor, until he has fully qualified as required by law.

§ 110. OFFICE, WHEN DEEMED VACANT.] If any officer, elected or appointed, of a school township or district shall fail to qualify or to give bonds as required for one month after the time required, the office shall be deemed vacant, and a successor appointed as required by law. Whenever a treasurer of a school township, by election or appointment becomes his own successor he shall give new bonds, and all such officers shall qualify anew upon entering upon a new term. If from sickness or any other cause such officer shall become incapacitated or unable to attend to the duties of his office, the fact shall be certified to the county superintendent by the remaining officer or officers of the school township, and a successor shall be appointed as to a vacancy. Ceasing to be a resident of the township shall be deemed an immediate vacation of the office.

§ 111. RESPONSIBILITY FOR MONEY LOST.] If any treasurer of a school township or district shall by neglect, lose or suffer to be lost, any money belonging thereto, which has been received from the county treasurer, said treasurer shall forfeit to such township the full amount of money so lost, and it may be recovered by an action upon his official bond.

§ 112. PENALTY FOR MONEY LOST.] Every treasurer of a school township or district who shall loan any part of the money in his hands belonging to the township, whether for a consideration or not, or who shall expend any part thereof for his own or any other person's private use, is guilty of embezzlement, and shall upon conviction, be punished as provided by law.

§ 113. DUTY OF COUNTY TREASURER.] The county treasurer shall collect all moneys due the county for school purposes from fines, penalties for crimes or other acts or failures, forfeitures,

licenses, proceeds from the sale of estrays, from exemption from military duty, and all other moneys from any source or by any law due to said school fund, and shall add the same to the proceeds of the county general school tax in his report to the county superintendent for apportionment. He shall collect all delinquent school taxes as by law provided for other taxes, and at the same time, and he shall pay the same over to the treasurers of school corporations entitled thereto, less his fees and costs of collecting; and if any county treasurer shall refuse to deliver over any money in his possession upon legal order, 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.

§ 114. REFUNDING MONEYS ERRONEOUSLY COLLECTED.] Whenever an error may be discovered in any school corporation tax list, the school board thereof may order any money which may have been improperly collected on such tax list to be refunded. The board of county commissioners may, while all taxes are collected by the county treasurer, correct and refund such improper collection of school taxes the same as for county taxes.

§ 115. TAX TO PAY JUDGMENT.] Whenever any final judgment shall be obtained against any school corporation, the board thereof shall levy a tax upon the taxable property in the corporation for the payment thereof; such tax shall be collected as other school taxes, but no execution shall issue against any school corporation. Such tax or taxes shall not be greater than two per cent. in any one year, and any surplus funds in the treasury of the school corporation may be appropriated to the payment of a judgment. If the school board shall fail or refuse to levy such tax the judgment creditor may apply to the board of county commissioners who shall cause such tax to be levied upon the property of the school corporation. When collected it shall be paid over by the county treasurer to the judgment creditor, whose receipt therefor shall be delivered the same as money to the treasurer of the school corporation by the county treasurer. Such levy may be repeated until the judgment is paid.

§ 116. JURISDICTION OF JUSTICES.] Justices of the peace shall have jurisdiction in all cases in which a school corporation is a party interested, when the amount claimed by the plaintiff does not exceed one hundred dollars, and the parties shall have the right to appeal as in other cases.

§ 117. FINES, HOW COLLECTED.] All fines and penalties not otherwise provided for in this act shall be collected by action in any court of competent jurisdiction.

§ 118. PARENT MAY DEMAND SCHOOL PRIVILEGES.] In any organized school township it shall be lawful for the parent, guardian or other person having charge of any child or children of school age, to demand and require each school year as many as four months school to be taught at the school to which he belongs, or some other accessible to him and to attend which, provision is made for the children in his charge, without tuition; and in case of failure of the school township to make such provision the persons having in charge such school children may send them to any school in any adjoining school corporation, whether in the county or not, which will admit them, for the period of four months each school year, and the school corporation in which said pupils so attend school shall be entitled to collect and receive from the corporation in which they are residents the sum of fifty cents a week for each and every pupil so admitted and attending school. And when twelve or more such children are organized by the persons having them in charge into a school within the township where they reside, and a qualified teacher is employed and teaches such school, with an average daily attendance of nine or more, the pay of such teacher at the rate above declared shall be a charge upon such school township, not exceeding twenty dollars a month for four months in each year:

Provided, That before employing such teacher and opening such school they shall serve two weeks notice of their intention to do [so] upon the township school board in order that it may provide the school. No other charge for such school shall be made.

§ 119. COMPULSORY EDUCATION.] Every parent, guardian or other person having in charge any child or children between the ages of ten and fourteen years is required to send such child or children to a public school at least twelve weeks in each school year, at least six weeks of which shall be consecutive, unless such child or children are excused from such attendance by the school board by reason of bodily or mental infirmity such as to prevent attendance at school or application to study, or that such child or children are taught an equal time in some private school or regularly at home in such branches as are ordinarily taught children of that age in public schools, or that no public school is taught for the time required, and within two miles by the nearest way to the home of such person within the school township.

§ 120. COMPLAINT BY MODERATOR.] The director of the township, and the moderators assisting him, shall ascertain if there are any such children deprived of school privileges while an accessible school is taught, and he shall notify the parent, guardian or other person having them in charge, and direct that they be sent to school as herein required. If they fail or refuse to send such child or children to school as required in the preceding section he

shall make complaint before some justice of the peace of the failure, and every such person having in charge a child he so fails to send to school shall, upon conviction, be fined not less than three nor more than ten dollars. If the director fails to make such complaint, any moderator or citizen may do so, after having served notice of his intention to do so for two weeks previously, upon such parent, guardian or other person.

§ 121. ASSESSOR TO FURNISH CERTIFICATE.] Every township or county assessor shall, on or before the 15th day of June in each year, furnish to the clerk of each school corporation the property of which he assesses, a certificate of the valuation of all real property and all personal property, and of the total of these, subject to taxation within the corporation for the current year.

§ 122. WHAT SCHOOL REPORT TO INCLUDE.] The school year ending June 30th, 1884, shall take up and include in its accounts statistics and reports, all the affairs, accounts, statistics and other items of school business after the 31st day of March, 1883; but thereafter each school year shall begin upon July 1st and end upon the 30th day of June of the year following, and all accounts, records and reports shall conform to these provisions, and the officers of all school corporations shall be elected and shall qualify accordingly.

TEACHERS' INSTITUTE.

§ 123. INSTITUTE FUND.] There is hereby appropriated out of any funds in the Territorial treasury not otherwise appropriated the sum of six hundred dollars each year as an institute fund which shall be used exclusively in employing persons of learning, ability, skill and experience as conductors of teachers institutes. The superintendent of public instruction shall appoint the times, places and duration of these institutes, after such consideration of the requests of county superintendents as in his judgment the need of the various parts of the Territory will permit. Of this fund not more than sixty dollars shall be paid for the expenses of any one institute in a year, and such institute shall continue for two weeks. No institute aided by this fund shall continue for less than five days.

§ 124. INSTITUTES, EXTENSION OF TIME.] The money assigned for any particular institute may be added to any fund furnished for the purpose by any county, and the institute extended so long as the entire fund will allow, not exceeding four weeks. If a sufficient county fund be not otherwise provided, the board of county commissioners may appropriate not more than fifty dollars in any county each year in aid of institutes. The Territorial Superintendent may require a statement of the amount of funds

a county may have for the purpose, before setting apart any Territorial funds in aid of an institute therein.

§ 125. INSTITUTE CONDUCTORS.] The Territorial Superintendent shall employ or designate every conductor for an institute aided by Territorial funds, and no such funds shall be paid to any conductor of an institute not previously appointed or employed by him. Two or more counties may be grouped into one institute; and for any joint county institute which the Territorial Superintendent is satisfied will be well attended from each of the counties included, the sum of eighty dollars may be used from the Territorial fund.

§ 126. INSTITUTE MONEYS—HOW PAID.] The money hereby appropriated from the Territorial treasury for an institute fund shall be paid to the persons to whom it is due by warrant of the Territorial Auditor upon the Territorial Treasurer, which shall be issued upon the presentation of an account in due form, receipted by the person to whom due and approved by the Territorial Superintendent. All the incidental expenses of such institutes shall be paid out of the county institute fund, or by the several counties for which they are held.

RESIGNATIONS.

§ 127. WHEN SCHOOL OFFICE BECOMES VACANT.] Any office of a school corporation shall become vacant by the formal written resignation of the incumbent thereof, but such resignation shall not take effect until a successor has qualified according to law. The resignation shall be addressed to the county superintendent who shall immediately appoint a successor and notify the county clerk thereof in writing.

BOARDS OF EDUCATION.

§ 128. ACT NOT TO APPLY TO BOARDS OF EDUCATION.] This act shall not apply except where by its terms it is especially made applicable to boards of education established by any statute general, special or local, now in force or which may hereafter be passed establishing such boards or affecting their powers; and it is specially provided that all amendments to every such law shall not be affected by this act, and all acts and parts of acts and amendatory acts authorizing such boards of education to issue bonds and providing for the payment of the same shall remain in full force as by their terms provided. The public schools of any city, town or village which may be regulated by special law or by the charter of said city, town or village, or by any general acts establishing boards of education, shall be entitled to receive their proportion of the public school and other funds;

Provided, That the clerk or secretary of the board of education of said city, town, or village, shall at the time required by law for school townships to do the same, make a report to the county superintendent of public schools of the county in which such board of education is situated, showing the whole number of children between the ages of seven and twenty years residing within the territory of such board on the day in this act required for such enumeration in the school townships; but no further report to such superintendent shall be required.

TOWNSHIP LIBRARIES.

§ 129. SCHOOL LIBRARIES.] The school board of any school township shall have power, when thereunto organized as in this act required for establishing a graded school, by a majority of the schools and the voters thereof, to purchase and keep for the use of the inhabitants of the school township a circulating library of the value of not more than five hundred dollars, to be selected by the school board from any list of books furnished or approved by the superintendent of public instruction.

§ 130. PURCHASE OF BOOKS.] The superintendent of public instruction shall, upon the application of any county superintendent, furnish such list to him, or approve, if he finds it suitable, any list furnished by the county superintendent, which shall then be the list for such county from which any board may so select and purchase; and additional lists may from time to time be so furnished or approved by selection, and no books shall be purchased for any such library except from such lists. The books so listed shall include publications of not less than four different publishing houses or firms, independent of each other, and shall be, as far as practicable, accompanied by the lowest prices that can be secured thereon, with terms and other items of value to the purchasers. The board may at any time accept donations of books for the library, not included in the lists, but shall exclude from the library all books of an immoral nature or otherwise unsuited to the cultivation of good character and good morals and manners; and no sectarian publications devoted to discussions of sectarian differences and creeds or partisan political pamphlets and books, shall be admitted to the library.

§ 131. CARE OF, AND RULES OF, LIBRARY.] The township school board shall have the care and keeping and custody of the library, and shall make rules to govern the drawing, circulation and care of the books while in the hands of the people, and shall prescribe and collect penalties for the injury, defacement or other harm done to any book by the act, negligence or permission of the person who draws the same, or while in his possession, by any other

person. No book shall be loaned for a longer period than two weeks at any time to one person, and never to any person not a resident of the township. The library shall be open at least once each week for not less than three hours for the accommodation of the people in returning and drawing books.

§ 132. TOWNSHIPS MAY CHANGE LIBRARIES.] Any township may at any time exchange any part or all of its library with any other township, or other library or person, so far as different books may be so obtained, for equal values of the books exchanged.

§ 133. LIBRARY TO BE PRESERVED.] The school board of the township must see that the library is properly kept and cared for and the books preserved from harm, except that arising from ordinary proper use; and they may pay any person suited thereto, including one of their own number, not more than twenty-five dollars a year for services as librarian.

§ 134. USE OF BOOKS.] The board shall, under proper rules and safeguards, permit teachers to take books from the library temporarily to their schools for use there in illustrating any subject, and for purposes of general information and instruction; and all school corporations are authorized, without further authority, to purchase, and, during term time, leave at each school one copy of Webster's Unabridged dictionary, which is recognized as the standard for the English language in all the schools of this Territory.

§ 135. PERMIT USE OF SCHOOL HOUSE FOR MEETINGS.] The board may and under proper rules and restrictions it is their duty to permit the use of the school houses for the meetings and sessions of literary societies, associations and lyceums, for meetings or schools for instruction and training in vocal music and for public literary, scientific and other lectures, and for other exercises, entertainments and meetings of like character and purpose.

UNITING DISTRICTS IN TOWNSHIPS.

§ 136. UNION OF DISTRICTS.] The adoption of the system herein provided, and the passage and approval of this act shall not have the effect to discontinue, abolish and render null such school districts or their organization as they may now exist in any county, but they shall continue to exist and their officers to act as such in law and fact until the school township organization is complete so far as it includes any particular district or districts or the larger part of any particular district. And such township organization shall not be deemed complete, nor such districts so cease to exist and their officers to act as such until all matters between the district and the township are adjusted and the property delivered, funds paid over and an adjustment is reached for the equalization of taxes and property between the districts which

enter into the school township, so far as such taxes and property remain permanent in houses, sites, furniture and other parts of houses and grounds.

§ 137. SCHOOL DISTRICTS TO EQUALIZE PROPERTY AND FUNDS.] After the boundaries of school townships shall have been fixed and declared as provided by this act all those districts the school houses of which are included in any particular school township (whether all the area of such districts is included or not) shall effect an equalization of property, funds on hand and debts. To effect this the school boards of all such districts, so included in a school township, or one or more members of each, shall meet together at a time and place appointed by the county superintendent who shall meet with them. They shall first agree upon the valuation at that time of all the permanent school property of each district, consisting of school houses, sites and furniture, and other permanent appendages. To this they shall add all money on hand or due from the county treasurer (not counting any delinquent taxes), and from the sum they shall subtract all debts owed by the district, including bonds and warrants outstanding. The result will show the net permanent property owned by each district. If in any district the debt is greater than all the assets, it shall be so stated, and treated as hereinafter required.

§ 138. MANNER OF DETERMINING EQUALIZATION.] Taking the district having the highest or largest value of net permanent property so ascertained they shall next determine the difference between this and each of the other districts in succession, and then taking the valuation of taxable property in that district having the largest value of net permanent property they shall find what rate if levied thereon would produce each of the several amounts which each district lacked in property of equaling the one having the most. These several rates shall be the equalizing rates to be levied upon the property of the districts respectively. In ascertaining and determining these several amounts and rates and in all the proceedings of the joint session of these district boards, each district shall have but one vote whether represented by one or more officers, which vote shall be cast as may be determined by the officers present from such district. The county superintendent shall preside at the sessions, and in case of disagreement, when a majority of all the districts does not vote in favor of any particular amount, or rate, or other definite settlement, the county superintendent shall decide the question, governing himself by the facts as they appear and so far as practicable by the several opinions expressed, and his decision shall be final.

§ 139. SAME.] In determining each amount and rate regard shall be had to the previous history, areas, taxation, changes of boundary and other facts which may have affected the different values

of permanent property, and allowance shall be made for the same so far as can fairly and clearly be done. They shall not consider property not paid for, nor for which outstanding bonds or warrants were issued or other debts created; but they shall consider property and debts both, as hereinbefore provided. If in the opinion of the boards excessive amounts of bonds were issued or paid for the property or the proceeds or funds were wasted in any other manner, or extravagant prices were paid for any part, they must allow for the same against such district in the levy of the equalizing rates. And they shall also consider a debt owed by a district beyond the value of property had by it, and such net debt shall be added and used as a part of the difference between such district and the one having the highest value of property. The said boards are authorized to levy such tax upon property which is not in any district but is included in the school township.

§ 140. PROCEEDINGS TO LEVY TAX.] When the rates to be levied upon the several districts shall be fixed, a list thereof shall be made wherein the rate shall be set down in mills opposite each district. The whole shall be stated substantially in the form herein required for certifying school taxes, and it shall be addressed to the county clerk and shall be signed by one or more officers of each district, and at least by a representative of one officer from each of a majority of the districts included, and shall then be approved by the county superintendent, and by him forwarded to the county clerk, and it shall be deemed a valid and legal levy upon the taxable property of each district, at the rates therein respectively stated for each. Not more than two per cent. shall be so levied in any one year as an equalizing tax upon any one district, and not more than six per cent. in all shall be so levied upon any one district as an equalizing tax; and when in any case the equalizing tax upon any district shall exceed two per cent. that amount of the rate shall be levied the first year, and not more than that, if necessary, the second year, and so for the next year thereafter, until the whole amount shall be so levied. The county clerk shall preserve such levies, and shall extend the several rates from year to year as above required by law for district taxes, and the taxes shall be collected at the same time and in the same manner as other taxes are collected.

§ 141. LIMIT OF TAXES.] Such equalization taxes shall not limit the power of the school board of the township to levy taxes generally upon property of the township for school purposes, as in this act provided, but they shall not levy any rate which shall with the equalizing rate amount to a rate of more than three per cent. in any one year upon any part of the school township. Upon the completion of the agreement and levy of the equalizing rates, and upon the qualification of the officers of the school township, the

organization of the school township shall be complete and in full force. If any part of a district be excluded from the boundaries of a school township with and for which its equalization tax was levied, the said tax shall extend over and upon all the property of the entire district, and the proceeds shall be paid over as in the next section required.

§ 142. TAXES, WHERE APPLIED.] Opposite the several descriptions of property on the tax lists shall be entered the school township within which it lies, and all the proceeds of these equalizing taxes shall be collected and paid over to the treasurer of the proper school township within which the property is situated. The proceeds of taxes upon parts of districts lying outside of townships with which they were equalized shall be paid to the treasurer of the school township within which the property is situated, the same as hereinbefore provided for regular taxes.

§ 143. TOWNSHIP SCHOOL BOARD TO ASSUME MANAGEMENT.] Immediately upon the organization of the school township as hereinbefore provided, the township school board shall assume the management and control of the public schools and the school property therein, and the officers of the several districts shall turn over to the township school board all moneys, books, papers, accounts, files, school property and other property of the districts, and it shall all vest in the township as a school corporation for the use of schools and under the provisions of this act:

Provided, however, That all taxes before that date voted in such districts and levied but not collected shall be collected, and, together with all the money in the hands of the county treasurer, be paid over to the treasurer of the school township in which the property upon which it was levied is situated, and the debts and liabilities of such school districts shall be assumed and paid by the school township the same as it incurred thereby, and to that end the officers of each school district shall make to the township school board, full, true and accurate statements of the property, debt, finances and condition of their district.

§ 144. LIABILITY OF SCHOOL TOWNSHIP.] Every school township shall be liable for and shall assume and pay fully, according to their legal tenor, effect and obligation, all the outstanding bonds and the interest thereon, of every school district, the school house and furniture of which are received and included within the school township and owned thereby, the same as if said bonds had been issued by said school township; and the law which authorized the school district to issue bonds shall apply to the school township the same as if it had originally been authorized to issue, and had issued the said bonds. The bonds shall be deemed in law the bonds of the school township, with the same validity for securing and en-

forcing the payment of principal and interest that they would have against the district that issued them.

§ 145. ACT TO BE PUBLISHED.] This act shall take effect and be in force from and after its passage and approval, and the superintendent of public instruction is authorized to contract for and cause to be printed six thousand copies thereof in pamphlet form and to distribute the same through the county superintendents to the school officers throughout the Territory; and the sum of eight hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the territorial treasury not otherwise appropriated to pay for printing the same. The accounts for the same shall be certified by the Territorial Superintendent, and shall be paid by warrants of the Territorial Auditor drawn upon the Territorial Treasurer.

§ 146. CONFLICTING ACTS REPEALED.] All acts and parts of acts in conflict with this act are hereby repealed, except as in this act saved, extended and limited, but such repeal shall not affect the validity of any contract heretofore entered into or any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal action before such repeal, but all rights and liabilities under said acts shall continue and may be enforced as if said repeal had not been made, nor shall said repeal affect the right to any office or change the term or tenure thereof except as in this act especially provided; but this act shall, so far as applicable, be used for the adjustment and settlement of all matters provided for herein and in proceedings thereto, not impairing the obligation of any contract or affecting any vested or legal right.

§ 147. WORDS, HOW CONSTRUED.] Words giving a joint authority to three or more public officers or other persons are construed as giving such authority to a majority of them, unless it be otherwise expressed in the section or law giving the authority; and when a decision or direction is made by the majority of such officers or persons it is the duty of the one to whom its execution belongs by law to execute the same in all respects as if he had favored the particular decision or direction, or as if it were authorized unanimously.

§ 148. CERTAIN COUNTIES EXEMPT FROM PROVISIONS OF ACT.] The provisions of this act requiring the division of counties into school townships, and the election and qualification of officers for the same, and for the organization and execution of the powers of such school townships shall not have force and take effect in the counties of Union, Lincoln, Clay, Turner, Yankton, Minnehaha, Moody, Brookings, Lake, Deuel, Codington, Cass, Grand Forks, Walsh, Pembina, Barnes and Lawrence until so ordered by the

respective boards of county commissioners of said counties upon said boards being satisfied respectively that the conditions of the school districts and their affairs, and of the civil townships when now organized therein, and the needs and circumstances of the schools and school property therein, and of all other matters relating to the good of schools, are such as to permit and justify the full carrying into effect of this act. Such boards of county commissioners shall carefully examine this act and inform themselves fully of the state of the foregoing affairs and conditions relating to schools in their several counties, and shall consult with the county superintendent and other school officers and citizens, and thereupon decide the matter at such time as they deem best.

§ 149. PROCEEDINGS BY BOARDS OF COMMISSIONERS OF TEMPORARILY EXEMPTED COUNTIES.] Whenever the board of county commissioners of either of said counties shall decide by resolution that the condition of school affairs in their county is such as to justify the carrying out of this act therein, they shall cause notice thereof to be given by publication, and they may proceed at any time they deem convenient to divide the county into school townships as herein provided, and to change the boundaries of townships now organized for civil purposes, and all the proceedings and acts necessary and required to be done by this act by any person, officer, board or authority at a particular time to organize school townships may be done and executed in any such county at any time the board of county commissioners may direct, or if not dependent upon them when directed by the proper officer. When any time, date or act is fixed by this act, it need not be regarded in the organization of school townships in any such county as required at the date herein named, but the time therefor may be appointed by the said board of commissioners, unless it is by law left to some other authority to appoint it. In all such counties the present school law, entitled "An act to establish a public school law for Dakota Territory," approved February 22, 1879, and all acts amendatory thereof, and the act entitled "An act to empower school districts to issue bonds for building school houses," approved March 3, 1881, and all acts amendatory thereof and dependent thereon, and the act entitled "An act making provisions for the schooling of children living in any organized district," approved February 17, 1881, shall, except as hereinafter provided and changed, continue in force for the organization, government, control and change of school districts and their boundaries therein, the same as if this act had not passed, until this act shall take effect therein as provided by this and the preceding section.

§ 150. CERTAIN PORTIONS OF ACT TO TAKE EFFECT GENERALLY.] In all counties, however, the following parts of this act shall take effect at once and be in force whether the school townships or
1883.—16

school district be the form of school corporation and organization, viz: Sections 1 to 22, inclusive; section 34 to 42, inclusive; sections 49 to 63, inclusive; sections 82 to 91, inclusive; sections 94 to 117, inclusive; and sections 121 to 127, inclusive; and in said sections the word district shall be inserted or understood in place of the word "township," and like word for like word whenever necessary to clearly apply the law to the school district and its officers and school board, the same as to the school township and its officers and school board, and the word "corporation" or the phrase "school corporation" shall apply to and signify school district as well as school township.

§ 151. DATE OF SCHOOL DISTRICT ANNUAL MEETING.] The school district annual meeting shall, after the year 1883, be held upon the last Tuesday in June of each year, with like notice therefor as now required by law, and with the powers provided by law, and all that time after the 31st day of March, 1883, to and including the 30th day of June, 1884, shall be included as part of the school year ending June 30, 1884. All school district officers elected in 1883 shall be chosen for a term to end on the 30th day of June in the proper year next after the 31st day of March, whereon by the present law their terms would end.

§ 152. THIS ACT TO GOVERN IN ALL NEW COUNTIES.] Except as to those counties herein specially excepted and provided for this act shall take effect immediately, and it shall take effect in all new counties hereafter organized. Whenever a new county is organized the county board of commissioners shall at a convenient and suitable time divide their county into school townships, and do all things necessary for carrying this act into effect.

§ 153. WHEN SCHOOL TOWNSHIP MAY BE SMALLER.] In all counties whereof any part is mountainous or very hilly and broken so as to render it impracticable to organize school townships of the area required by this act, then they may organize them of a suitable area, smaller than herein required.

§ 154. OFFICERS, HOW TO QUALIFY.] Hereafter all school district officers shall qualify as herein required for school township officers in all respects, and all the bonds of school district treasurers now on file in the offices of school district clerks with their oaths of office, shall by such clerks be forwarded to the county clerk, and filed in his office. Officers of school townships and of school districts shall hereafter be deemed township officers within the provisions of the Political Code, but their qualification, resignation and succession shall be governed by this act and the act governing school districts.

§ 155. FOUR MONTHS SCHOOL.] All school corporations shall maintain public schools for not less than four months in each

school year, and for a longer period if the schools can be maintained according to the principle and rule declared in the act entitled "An act making provision for the schooling of children living in any organized district," approved February 17, 1881. The school boards of all school corporations whether townships or districts shall determine the length of time each term of school shall be taught and what part shall be taught in winter and in summer; and they must so divide the terms and time schools are taught between the summer and winter as to accommodate the attendance equally, as near as may be, each year of pupils of all ages.

§ 156. TREASURER'S ANNUAL STATEMENT.] Besides the requirements herein provided for the reports of officers of corporations for school purposes the treasurer of every school district shall submit to the annual school meeting of his district the statement, with the items thereof, herein required for the reports of school treasurers, and shall exhibit the vouchers for all disbursements, and shall be prepared and make answer to the school meeting concerning the financial condition of the district and any feature thereof.

§ 157. WHEN SCHOOL DISTRICT COMPELLED TO MAINTAIN SCHOOL --FORFEITURE.] Every organized school district which has 15 or more persons of school age and which has taxable property amounting by assessment to four thousand dollars or more, shall erect or otherwise provide a public school house, which with site and furniture, is worth not less than seven hundred dollars, and shall maintain a regular public school therein for not less than four months in each school year. Such school house shall be placed upon ground held by the school district for school purposes, whether by purchase or condemnation, as provided by law, and the title to the house and furniture shall vest in the school district only, and neither in part or whole in any other owner. The school shall be a regular free, public school as required by law and shall be taught by a regularly qualified teacher. If any district fails for one year after the passage of this act and for two years after its organization to comply with and fulfill the requirements of this act, the county superintendent shall declare its organization null and void and may attach the territory embraced in the district to other districts as he may deem best for the good of schools.

Approved, March 8, 1883.

CHAPTER 45.

SCHOOL HOUSE BONDS.

AN ACT to Authorize and Empower School Townships to Issue and Dispose of their Bonds, to Provide Funds for Building and Furnishing School Houses, and to Provide for the Payment of the Principal and Interest thereof.

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

§ 1. SCHOOL TOWNSHIP MAY ISSUE BONDS.] Every organized school township is hereby authorized and empowered to issue its bonds in the name of the school township corporation, and to sell and dispose of the same and to apply the proceeds thereof exclusively to building and furnishing school houses for the public schools of such township, and to no other purpose. Said bonds shall be in denominations of one hundred dollars and five hundred dollars, redeemable after eight years and payable at the end of fifteen years from the date of their issue, and bearing interest at a rate not exceeding seven per centum per annum, payable semi-annually, with coupons attached for each interest payment. The bond and each coupon shall be signed by the clerk of the school township and countersigned by the director; shall be upon good bond paper, and shall distinctly state at the close of the bond proper that it is issued for school purposes only, and upon the margin shall have printed: "Issued in accordance with the provisions of the act of the Legislative Assembly of Dakota Territory, approved, 1883, inserting the date of the approval of this act.

§ 2. SALE OF BONDS.] Such bonds shall be sold at not less than par, but the school township is authorized to pay an amount not exceeding two per centum of their face value for the purpose of meeting all the expenses of the preparation and sale of the bonds, and the transmission and receipt of the money derived from their sale. This money may be paid from the proceeds of the bonds or out of any money in the school township treasury, and must be paid upon a warrant and the payment duly entered in the accounts. All money received from the sale of the bonds shall be paid to the treasurer of the school township, and shall be by him paid out only upon proper warrants signed by the clerk and countersigned by the director, and for purchasing or erecting and furnishing public school houses for the school township.

§ 3. BOND TAX.] The township school board shall levy each

year upon the taxable property of the school township a sufficient tax to pay the semi-annual interest when it becomes due, and, after seven years, a sufficient tax to provide a sinking fund for the payment of the principal of the bonds when due. If necessary these taxes may be, for three years after the organization of the township for school purposes, in addition to the tax authorized to be levied by the board for school purposes; but after that period all school taxes included shall not exceed three per cent. upon the taxable property of the township in any one year, except taxes for final judgments against the school township for which not more than two per cent. additional may be levied in any one year.

§ 4. REDEMPTION OF BONDS.] When the said bonds become redeemable and the school township has money in the sinking fund, or other money which may properly be applied to that purpose, because not otherwise appropriated, the township treasurer shall apply all such money to the redemption of the bonds, and the order of their redemption shall be determined by the treasurer by lot. Notice of such redemption shall be given by the financial agency at which the bonds are made payable, which may be any where in the United States, by one publication in a paper to be selected by it, and if payable at the township and by the treasurer, notice may be given by one publication in a newspaper of general circulation in and published within the county; and in either case the interest shall cease at the end of two weeks from the date of such publication. When redeemed the bonds shall be cancelled by the treasurer and clerk, or in his absence or failure the director, who shall certify the same across their face, and enter it in the clerks record book of proceedings, describing the bonds severally.

§ 5. TREASURER'S BOND.] Whenever the amount of money to come into his hands as proceeds from the sale of bonds shall, with all other township school funds in his hands, surpass the amount limited by law relating to treasurers of school townships, the clerk and director or the county superintendent shall require a new or additional bond as therein required, before the money shall be paid into his hands.

§ 6. SPECIAL ELECTION.] Before any such bonds may be issued the question of issuing them shall be submitted to a vote of the qualified electors of the school township. Such election may be held at any time upon notices thereof signed by the clerk of the school township. Said notices shall be posted in not less than six of the most public places in the township not less than twenty days before the day of election. They shall, besides the date, object and place or poll of the election, state the precise amount of bonds proposed to be issued and the number, and as near as may be, the location of the school houses proposed to be erected from the proceeds of the bonds. The election shall be held as required

by law for other elections in school townships. The ballots shall have written or printed thereon the words, "For school house bonds" or "Against school house bonds." If a majority of the votes cast be for school house bonds the bonds shall then be issued in accordance with this act, otherwise not. The judges and clerks of election shall make and immediately transmit to the county clerk a return of the election, duly stated and signed by them.

§ 7. REGISTER AND ENDORSEMENT OF BONDS.] Before the bonds are sold or disposed of they shall be presented to the county clerk. He shall carefully examine the return of the election on file in his office and shall satisfy himself by the evidence that may be furnished by the officers of the school township that such election and return are in accordance with the provisions of the notices for the election and of this law; and if satisfied that the bonds have been so lawfully voted, he shall, in a book kept for that purpose, preserve a registry of each bond, showing in separate columns and entries the name of the school township issuing the bond, the number of the bond, the denomination thereof, the date of issue, and other facts, and upon each bond shall endorse the following certificate: "I hereby certify that the within bond for hundred dollars of school township, county, Dakota Territory, is issued in accordance with law and by authority of a majority of the legal voters of said township, voting at an election duly held, 188. . ., for that purpose and is duly registered in this office." The blanks shall be filled according to the fact, and the certificate officially signed by the county clerk and attested by the seal of the county. The validity or obligation of any such school bond so registered and certified shall not be questioned in any court or tribunal, but every such bond shall be and remain valid and binding.

§ 8. WHEN COUNTY CLERK TO LEVY TOWN SCHOOL TAX.] If the coupon of any such bond, or the bond proper, shall not be paid when due by the school township and for a period of six months thereafter, the holder thereof may present the same to the county clerk of the proper county, with affidavit of some person to the fact of such non-payment after presentation, and the county clerk shall make a record of the fact and of the amount so due; and if the proper tax be not already levied by the school board of the township, the county clerk shall levy and extend upon the tax lists against all the taxable property of the township a rate sufficient to produce an amount necessary to meet the said payments, which said tax shall be collected as other school taxes are collected. Such tax shall not exceed two per cent. in any year and may be in addition to all other taxes authorized. From the first money which comes into his hands from this tax the county treasurer shall pay the coupons and then the bonds so defaulted, and the

coupons and bonds so paid and received by the county treasurer shall be delivered to the treasurer of the proper school township and receipted for the same as money. Such tax shall be levied from year to year by the county clerk and extended upon the tax lists and collected and used by the treasurer in redemption of the coupons and bonds until they are fully redeemed and paid, unless they are meanwhile withdrawn from such protest by the holder.

§ 9. REDEMPTION OF OLD BONDS.] Any school township may issue its bonds as herein provided in exchange at par for both and in redemption of school district bonds issued before its organization and for which it becomes responsible. This exchange may be made by the school board of the township without submitting the question to a vote if they are previously advised in writing by the attorney for the county, that such school district bonds are valid and binding upon the township. Such legal opinion must be filed with the county clerk. Such redemption bonds must be registered and certified by the county clerk, who instead of certifying that they are issued by authority of the voters shall state that they are issued in accordance with law in redemption of lawful school district bonds.

§ 10. LIMIT OF AMOUNT OF BONDS.] No school township shall issue such school bonds to an amount greater than fifteen hundred dollars for each separate school house necessary and required for the schools of the township, and twenty-five hundred dollars for each two room graded school which the school board is by law authorized to erect. For regular graded school houses each school township may issue bonds to the amount of five thousand dollars; and where two or more school townships join in erecting a graded school building and establishing a graded school each township of those so joining may issue bonds to the amount of three thousand dollars, and no more, for such purpose. All such propositions must be submitted specifically to a vote of the township, but the question of issuing bonds for the erection of two or more separate, ordinary school houses, and furnishing the same, may be submitted at the same time and voted upon as one question. The question of issuing bonds for graded schools may be submitted at the same or different elections, but must be separate and so stated as to permit a separate vote upon every such proposition.

§ 11. POWER OF TOWNSHIP TO ACT FOR FORMER DISTRICT.] Whenever by special act a school district is authorized to issue bonds in any special amount or in any amount not exceeding a certain sum named, and such school district, so by number or description authorized, is afterwards included within a school township, such school township is authorized to issue, sell and dis-

pose of such bonds to the same amount, and to use and expend the proceeds thereof, to erect and furnish school houses within the former boundaries of such district. But the vote upon such bonds, if required by the special act, shall be as required in this act and the bonds shall have the terms, the rate of interest and all the conditions required by this act.

§ 12. LIEN.] Bonds issued under this act shall be a lien upon the taxable property of the school township issuing them, and if other provisions of law fail, or seriously delay the payment of interest or principal by the neglect or refusal of officers to perform their duty, the district court for the county may upon application of the holder of such bonds or their coupons, in payment of which default has been made, and notice to the school township, cause such taxes to be levied as will meet the obligations and when collected to apply them to the payment of such coupons and bonds.

§ 13. ACTIONS AGAINST SCHOOL TOWNSHIP.] In every action or proceeding against a school township or in which a school township is a party in any manner it shall be sufficient to serve all process, orders and notices or other writs or papers upon the director, or if he cannot be conveniently found upon either of the other officers of the school township. When the director or other officer is so served or notified he must promptly inform the other officers of the school township and the school board of the township shall give direction concerning the action or proceeding.

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

Approved, March 9, 1883.

CHAPTER 46.

ASSISTANT SUPERINTENDENT.

AN ACT to Create the Office of Assistant Superintendent of Public Instruction and to Provide for his Salary and Proper Expenses.

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

§ 1. HOW APPOINTED—DUTIES, SALARY, ETC.] The Governor is authorized and it is made his duty to nominate and by and with the advice and consent of the Legislative Council to appoint a well qualified and suitable person to be assistant superintendent of public instruction, who shall hold his office for the term of two years, under the same conditions as provided for the Territorial Superintendent, and who shall qualify in the same manner required, for that officer. He shall under and in harmony with the superintendent of public instruction constantly labor and faithfully assist in promoting the interests of public common schools. He shall more particularly devote his time and labor to the interest of education in the north half of the Territory where he shall hold institutes, advise and assist county superintendents and other officers, endeavor to secure uniform and faithful administration of the law, the making of reports as required and the responsible accounting of all officers who hold or handle school funds, and shall co-operate with the Territorial Superintendent in all his duties. He shall be paid a salary of ten hundred dollars each year, and be allowed two hundred dollars each year for traveling expenses and one hundred dollars each year for necessary postage, books and stationery for his use, which said sums are hereby appropriated out of the Territorial Treasury for these purposes, and shall be paid to such assistant superintendent in the same manner and under the same conditions as hereinbefore required for similar payments to the superintendent of public instruction.

Approved, March 9, 1883.

Elections.

CHAPTER 47.

OPENING AND CLOSING THE POLLS.

AN ACT to Amend An Act Entitled An Act to Amend Section Ten of Chapter Twenty-seven of the Political Code on Elections.

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

§ 1. [TIME OF OPENING, CLOSING AND CANVASS.] That section one of chapter fifteen of the Session Laws of 1879, be amended to read as follows :

Section ten. At all elections to be held under chapter twenty-seven of Political Code, the polls shall be open at the hour of eight o'clock in the forenoon, and continue open until five 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 polls will be closed in half an hour, and immediately after the polls have been closed the judges and clerks of election shall proceed forthwith to count and canvass the votes cast, and they shall complete said canvass, and certify thereto before any adjournment shall be had.

§ 2. This act shall take effect from and after its passage and approval.

Approved, March 9, 1883.

CHAPTER 48.

JUDGES IN TOWNSHIP ELECTIONS.

AN ACT to Amend Section Three of Chapter Twenty-seven of the Political Code, Entitled "Elections."

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

§ 1. SUPERVISORS TO BE JUDGES.] That section three of chapter twenty-seven of the Political Code, shall be and the same is hereby amended, by adding at the end of said section the following :

Provided, That in every organized civil township, the township supervisors thereof shall be the judges of election for all elections, whether general or special, held for any purpose whatsoever in the county ; and if there shall be any vacancy in the board of judges, the electors present at the time when such vacancy appears shall choose *viva voce* from the qualified electors of the township so many judges as there shall be vacancies in such board ; and the township clerk shall be one of the clerks of election, if present.

§ 2. This act to take effect and be in force from and after its passage and approval.

Approved, March 9, 1883.

CHAPTER 49.

LEGALIZING ELECTION OF TOWNSHIP OFFICERS.

AN ACT to Legalize the Election of Township Officers in the Organized Townships in this Territory.

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

§ 1. CERTAIN ELECTION DECLARED VALID.] That the election of township officers of the organized townships of this Territory held on the seventh day of November, eighteen hundred and eighty-two, is hereby declared valid, and the township officers so elected are fully authorized to transact such business as is or may hereafter be directed by law, and that all their acts shall be held to be as legal as if they had been regularly elected and qualified ; and all such officers, except justices of the peace, who have not heretofore qualified, shall do so within ninety days after the passage of this act, or their offices shall be vacant and filled by appointment.

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

Approved, March 8, 1883.

Exemptions.

CHAPTER 50.

AN ACT Relating to Exemptions for Purchase Money.

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

§ 1. NO EXEMPTIONS FOR PURCHASE MONEY.] No exemptions shall be allowed any person against an execution issued for the purchase money of property claimed to be exempt and on which such execution is levied.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, February 21, 1883.

Fees.

CHAPTER 51.

ATTORNEYS FEE IN CERTAIN CASES.

AN ACT Providing for the Payment of Attorney's Fees to the Prevailing Party in Cases of Forcible Entry and Detainer, or Detainer in Justices Courts.

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

§ 1. JUSTICE TO TAX FEE.] That in all cases of forcible entry and detainer, or unlawful detainer, now pending, or hereafter brought, the justice shall tax as a part of the costs in the case, to the prevailing party, five dollars as attorney's fees, whether a trial is had or not, whenever an attorney who is actually an attorney of a court of record of this Territory, shall have appeared in such action in behalf of such prevailing party.

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

Approved, February 7, 1883.

CHAPTER 52.

DELINQUENT TAX SALE.

AN ACT Providing Compensation for Publishing Tax Sale.

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

§ 1. AMOUNT TO BE COLLECTED BY TREASURER.] The county treasurer shall charge and collect in addition to the taxes and interest and penalty, the sum of twenty cents on each tract of real property and ten cents on each town lot advertised for sale, which sum shall be paid into the county treasury and the county shall pay the costs of publication, but in no case shall the county be liable for more than the amount charged to the delinquent lands for advertising.

§ 2. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. That this act shall be in force and effect on and after its passage.

ENDORSED.—Received at Executive Office, March 1, 1883, at 12 m.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

CHAPTER 53.

LEGAL ADVERTISEMENTS.

AN ACT to Amend Section Twenty-two (22) of Chapter Thirty-nine (39) of the Political Code, entitled "Compensation of Public Officers," approved, February 17, 1877.

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

§ 1. FEES FOR LEGAL ADVERTISING] That section twenty-two (22) of chapter thirty-nine (39) of the Political Code, entitled "Compensation of public officers," approved, February 17, 1877, be amended to read as follows:

That in all cases where publication of legal notices of any kind are required or allowed by law, the person or officer desiring such publication shall be required to pay one dollar per square of 12 lines of nonpariel type, or its equivalent, for the first insertion, and seventy-five cents per square for each subsequent insertion. And in all cases of publication of notices in connection with commencement of actions in court, or sales upon execution, the plaintiff may designate the newspaper published within the county in which such notice shall be published; that in all legal advertisements, fractional parts of twelve lines shall be paid for at the rate of ten cents per line of nonpariel type, or its equivalent.

§ 2. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. That this act shall be in force and effect from and after its passage and approval.

Approved, March 9, 1883.

CHAPTER 54.

SHERIFF'S FEES.

AN ACT Requiring Sheriffs and Other Officers to Make Return of their Fees on Writs in Criminal Cases, when Returned.

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

§ 1. OFFICER TO ENDORSE STATEMENT OF FEE.] That when any sheriff or other officer shall serve any summons, subpoena, bench warrant, venire or other process in any action to which this Territory or any county is a party, such officer shall be required to endorse upon said writ or process or upon a paper attached thereto, at the time he makes his return of service thereon a statement of his fees for such service, the number of miles traveled and the amount of his mileage, and in case he shall fail to make his return with such statement and file the same with the clerk of the court from which such process issued before judgment shall be pronounced in the action to which such process relates, he shall receive no fees for such service, and the county commissioners of the county where such service is performed are hereby prohibited from allowing the same.

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

Approved, March 7, 1883.

Fees and Costs.

CHAPTER 55.

AN ACT to Amend Section Three Hundred and Seventy-seven and Three Hundred and Eighty-one and Three Hundred and Eighty-two of the Code of Civil Procedure.

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

§ 1. COSTS ALLOWED PREVAILING PARTY.] That section three hundred and seventy-seven of the Code of Civil Procedure be and the same is hereby amended to read as follows :

Section three hundred and seventy-seven (377). The amount of fees of attorneys, solicitors and counsel in civil and criminal actions must be left to the agreement, express or implied, of the parties. But in civil actions there may be allowed to the prevailing party upon the judgment certain sums by way of indemnity for his expenses in the action in addition to the disbursements now allowed by law, which allowances are termed costs.

§ 2. WHEN COSTS ALLOWED PLAINTIFF, UPON RECOVERY.] That section three hundred and eighty-one of the Code of Civil Procedure be and the same is hereby amended to read as follows :

Section three hundred and eighty-one. Costs shall be allowed of course to the plaintiff upon a recovery in the following cases :

1st. In an action for the recovery of real property or when a claim of title to real property arises on the pleadings or is certified by the court to have come in question at the trial.

2d. In an action to recover the possession of personal property.

3d. In the actions of which a court of justice of the peace has no jurisdiction.

4th. In an action for the recovery of money where the plaintiff shall recover fifty dollars. But in an action for assault, battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation, or seduction, if the plaintiff recover less than fifty dollars damages, he shall recover no more costs and disbursements than damages. And in an action to recover the possession of personal property, if the plaintiff recover less than fifty dollars damages, he shall recover no more costs and disbursements than damages, unless he recovers also property, the value of which, with the damages, amounts to fifty dollars or the possession of

property be adjudged to him, the value of which with the damages, amounts to fifty dollars; such value must be determined by the jury, court, or referee, by whom the action is tried. When several actions shall be brought on one bond, recognizance, promissory note, bill of exchange or other instrument in writing, or in any other case for the same cause of action against several parties who might have been joined as defendants in the same action, no costs other than the disbursements heretofore allowed by law shall be allowed to the plaintiff in more than one of such actions, which must be at his election.

Provided, That the party or parties proceeded against in such action or actions, shall at the time of the commencement of the previous action or actions, have been openly within this Territory, and not secreted. Costs shall be allowed of course to the defendant in the actions mentioned in this section unless the plaintiff be entitled to costs therein.

§ 3. COSTS IN DISCRETION OF THE COURT.] That section three hundred and eighty-two of the Code of Civil Procedure be and the same is hereby amended to read as follows:

Section three hundred and eighty-two (382): In actions other than those specified in section three hundred and eighty-one (381) of the Code of Civil Procedure, costs may be allowed or not, in the discretion of the court. In all actions where there are several defendants, not united in interests, and making separate defenses by separate answers, and the plaintiff fails to recover judgment against all, the court may award costs to such of the defendants as have judgment in their favor.

§ 4. That all acts or parts of acts in conflict with this are hereby repealed.

§ 5. That this act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, March 2, 1883.

Fees and Disbursements.

CHAPTER 56.

AN ACT to Amend Section Six Hundred and Fifteen of the Code of Civil Procedure.

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

§ 1. PARTY FORECLOSING ENTITLED TO COSTS.] That section six hundred and fifteen of the Code of Civil Procedure, be and hereby is amended to read as follows :

Section six hundred and fifteen (615): The party foreclosing a mortgage by advertisement shall be entitled to his costs and disbursements out of the proceeds of the sale, and shall also be entitled, in addition to any attorney fee agreed upon in the mortgage, upon the making by the attorney, or if more than one, by one of the attorneys employed to foreclose, and filing with the register of deeds at or prior to the time of sale, of an affidavit to the effect that such attorney or attorneys have been in good faith employed to foreclose; that the full amount of such fee enures to his or their benefit; that no agreement or understanding for any division thereof has been made with any other person, and that no part thereof is or has been agreed to be paid to the party foreclosing.

§ 2. That all acts and parts of acts inconsistent herewith are hereby repealed.

§ 3. That this act shall take effect from and after its passage and approval by the Governor.

Approved, February 13, 1883.

Fences.

CHAPTER 57.

RAILROAD FENCES.

AN ACT to Require the Railroad Companies in Dakota Territory, in Certain Cases, to Construct Fences,

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

§ 1. RAILROAD COMPANY TO CONSTRUCT FENCE.] That whenever the owner of any tract of land abutting against any line of railroad within this Territory, shall desire to enclose any such tract of land for pasturage or other purposes, and shall construct a good and sufficient fence about said tract of land on all sides except along the side abutting against such railroad, it shall be the duty of such railroad company to construct a good and sufficient fence not less than four and one-half feet high, on the side of such tract or lot so far as the same extends along the line of such railroad, and to maintain the same in good repair and condition until released therefrom by the owner of said tract, or until the owner of said tract shall have ceased to maintain in good repair and condition for the term of one year his portion of the fence around such enclosure.

§ 2. NOTICE—WHAT TO STATE.] That whenever the owner of any tract of land shall have completed his portion of the fence about such proposed enclosure, he shall give written notice of its completion to the railroad company upon whose line said tract is situated, by personal service upon the agent of said company at the station nearest to the proposed enclosure, describing in said notice the situation of said tract and the number of acres to be enclosed, as near as may be, and the length of the fence required along the line of such railroad to complete the proposed enclosure ; and it shall be the duty of the railroad company to construct and complete its portion of such fence within sixty days after the service of such notice.

§ 3. LIABILITY OF RAILWAY COMPANY.] That if any railroad company shall neglect, or refuse to comply with any of the requirements of this act, it shall be lawful for the owner of such tract to construct or repair the fence along the line of such railroad and the railroad company shall be liable to the owner thereof, to an amount not exceeding one dollar and twenty-five cents per

rod, to be recovered in a civil action; and such railroad company shall be liable for all damages accruing by reason of such neglect or refusal.

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

Approved, February 19, 1883.

Fire Escapes.

CHAPTER 58.

AN ACT Providing for Fire Escapes from Hotels in this Territory.

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

§ 1. HOTEL OWNERS TO PROVIDE FIRE-ESCAPES.] That the owners and proprietors of all hotels and other public buildings, in the Territory of Dakota, over two stories in height, are required to provide safe and suitable fire-escapes from all rooms above the second story of such hotel, and when rooms have no outside windows, there shall be affixed to the windows in the hallway leading from such rooms, at least three (3) fire-escapes in each window as herein directed; that said fire-escapes shall consist of at least one good cotton rope, not less than one inch in diameter, to be securely and permanently fastened with iron rings or bolts at a point immediately outside or inside of, at least, one window in each and every room above the second story; and that such rope or ropes shall be of length sufficient to reach to the ground;

Provided, however, If any such owner or proprietor of hotels above two stories, provide good and sufficient iron ladders extending from each of the windows herein described, and from points immediately adjacent to each of such windows, to the ground, and securely and permanently fastened to said building, or shall have a fire-escape ladder in each of the aforesaid rooms and hall windows, of a sufficient length to reach from said windows to the ground, will be deemed to have complied with the requirements of this act.

§ 2. PENALTY FOR NEGLIGENCE.] That every person violating any of the provisions of section one of this act, shall be punishable by a fine of not less than twenty-five dollars for each room in said hotel not provided with fire-escapes as required by this act.

§ 3. This act shall take effect and be in force from and after the fifteenth day after its passage and approval.

Approved, March 8, 1883.

Fish.

CHAPTER 59.

CERTAIN METHODS OF CAPTURING FISH PROHIBITED.

AN ACT to Protect Fish in the Territory of Dakota.

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

§ 1. CAPTURING FISH EXCEPT WITH HOOK AND LINE, PROHIBITED.] It shall be unlawful for any person to take, catch, kill or destroy any fish whatsoever, except by angling with hook and line, in any of the lakes or streams, or inlets or outlets of said streams, or any waters of the Territory of Dakota, except the Missouri and Red Rivers.

§ 2. CERTAIN VARIETIES PROTECTED DURING CERTAIN MONTHS.] It shall be unlawful for any person to take, catch, kill or destroy by any device whatsoever, any pike, pickerel, perch, bass or muscalonge except for the purposes of propagating or breeding, in any of the waters of the Territory of Dakota, except the Missouri and Red Rivers, between the first day of February and the first day of May in any year, or expose the same for sale during this period.

§ 3. PENALTY.] Any person who shall violate the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not less than five nor more than twenty-five dollars (\$25) for the first offense, or less than ten or more than one hundred dollars (\$100), or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment in the discretion of the court for any subsequent offense.

§ 4. All acts and parts of acts inconsistent with the provisions hereof are hereby repealed.

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

Approved, March 9, 1883.

CHAPTER 60.

PROVIDING MEANS TO STOCK DAKOTA STREAMS WITH FISH.

AN ACT to Stock with Food Fishes the Waters of Dakota and to Protect the Same, and for Other Purposes.

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

§ 1. APPOINTMENT OF FISH COMMISSIONER.] That it shall be the duty of the Governor of Dakota Territory to appoint and commission one person, who shall be a resident of the Territory, as a commissioner of fish and fisheries on the part of Dakota Territory.

§ 2. DUTY OF COMMISSIONER.] It shall be the duty of such commissioner when appointed, to receive and place in the waters of the Territory, or such thereof as he may think suitable therefor, any spawn or food fish, that the United States Commissioner of fish and fisheries may donate, or that may be donated by other parties for the purpose of stocking such waters with food fishes.

§ 3. COMPENSATION OF COMMISSIONER.] The said commissioner shall receive no salary, but shall be allowed and paid on proper vouchers approved by the Territorial Auditor, such amounts as he shall have actually paid in transporting any fish or spawn so donated, and his necessary traveling expenses in placing such fish or spawn in the public waters of Dakota.

Provided, That such expenses shall not exceed the sum of three hundred dollars per year.

§ 4. APPROPRIATION.] There is hereby appropriated out of the Territorial Treasury the sum of three hundred dollars, to carry out the provisions of this act, or so much thereof as may be necessary.

§ 5. PENALTY FOR REMOVING FISH.] Any person taking from any of the public waters of Dakota, except for breeding purposes, any fish or spawn which may have been placed therein for breeding purposes, or for the purpose of stocking such waters with food fishes, until public notice shall have been given by the Territorial Commissioner of fish and fisheries, that the same are open to the public for food purposes, shall be guilty of a misdemeanor, and upon conviction thereof be fined not to exceed one hundred dollars together with costs of prosecution.

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

Approved, March 7, 1883.

Foreclosure of Mortgage.

CHAPTER 61.

COUNTER CLAIM.

AN ACT to Amend Section 597 of the Code of Civil Procedure.

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

§ 1. PROCEEDINGS WHERE MORTGAGOR HAS A COUNTER CLAIM.] That section 597 of the Code of Civil Procedure, be, and the same is, hereby amended by adding at the end of said section the words:

“ *Provided*, That when the mortgagee or his assignee has commenced procedure by advertisement, and it shall be made to appear by the affidavit of the mortgagor, his agent or attorney, to the satisfaction of the Judge of the District Court of the county where the mortgaged property is situated, that the mortgagor has a legal counter claim or any other valid defense against the collection of the whole or any part of the amount claimed to be due on such mortgage, such judge may by an order to that effect enjoin the mortgagee or his assignee from foreclosing such mortgage by advertisement, and direct that all further proceedings for the foreclosure be had in the District Court properly having jurisdiction of the subject matter ; and for the purpose of carrying out the provisions of this act, service may be made upon the attorney or agent of the mortgagee or assignee.”

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

Approved, March 6, 1883.

CHAPTER 62.

FORECLOSURE ON PERSONAL PROPERTY—COUNTER CLAIM.

AN ACT Entitled "An Act to Amend Section One Thousand Seven Hundred and Forty-three of the Civil Code of Dakota Territory."

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

§ 1. PROCEEDINGS WHERE MORTGAGOR HAS A COUNTER CLAIM.] That section 1743 of the Civil Code, be, and the same is, hereby amended by adding at the end of said section, the words :

" *Provided*, That when the mortgagee, his agent or assignee has commenced foreclosure by advertisement and it shall be made to appear by the affidavit of the mortgagor, his agent or attorney, to the satisfaction of the Judge of the District Court of the county where the mortgaged property is situated, that the mortgagor has a legal counter claim or any other valid defense against the collection of the whole or any part of the amount claimed to be due on such mortgage, such judge may, by an order to that effect, enjoin the mortgagee, his agent or assignee, from foreclosing such mortgage by advertisement and direct that all further proceedings for the foreclosure of such mortgage be had in the court properly having jurisdiction of the subject matter."

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

Approved, February 27, 1883.

Game.

CHAPTER 63.

TO PROTECT BUFFALO, ELK, PRAIRIE CHICKEN, ETC.

AN ACT for the Protection of Game in the Territory of Dakota.

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

§ 1. UNLAWFUL TO KILL CERTAIN ANIMALS.] That it shall be unlawful for any person or persons to kill, ensnare or trap in any form or manner, or by any device whatever, or for any purpose, any buffalo, elk, deer, antelope or mountain sheep between the first day of January and the first day of September of each and every year.

§ 2. PENALTY.] Any person or persons who shall violate any of the provisions of section 1 of this act shall be considered guilty of a misdemeanor, and upon conviction thereof shall be fined for each elk so killed or found in his, her or their possession, the sum of ten dollars; and for each deer, antelope or mountain sheep so killed or found in his, her or their possession, the sum of one hundred dollars.

§ 3. UNLAWFUL TO KILL PRAIRIE CHICKEN.] That it shall be unlawful for any person or persons to kill, ensnare or trap in any form or manner, or by any device whatever, any prairie chicken or grouse, between the first day of January and the fifteenth day of August in each and every year.

§ 4. PENALTY.] Any person or persons who shall violate any of the foregoing sections of this act, or any corporation, company or employe thereof, who shall have in his, her or their possession, any game mentioned in this act as provided in the foregoing section, shall upon conviction thereof be fined the sum of two dollars for each and every prairie chicken or grouse so found in his, her or their possession, and the costs of prosecution, including attorney's fee of five dollars.

§ 5. REWARD FOR INFORMER.] Any person or persons giving information of the killing, ensnaring or trapping, or having in his, her or their possession, any prairie chicken or grouse, shall, upon conviction of any person or persons thereon, receive for said information from the officer before whom said party or parties are tried, one half of the fine imposed and collected.

§ 6. JURISDICTION OF JUSTICES.] Justices of the peace shall have full jurisdiction to try all cases arising out of the violation of the game law of the Territory of Dakota.

§ 7. DUTY OF OFFICERS TO CAUSE ARREST.] It shall be the duty of every constable or sheriff or their deputies, when notified that any person or persons have violated any of the provisions of this act, to cause the arrest of such person or persons reported as having violated said law, and to bring them before the nearest justice for trial.

§ 8. All acts and parts of acts in conflict with the provisions of this act are hereby repealed, except the law for the protection of quail.

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

Approved, March 9, 1883.

CHAPTER 64.

TO PROTECT QUAIL.

AN ACT to Protect Quail in Dakota Territory.

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

§ 1. UNLAWFUL TO KILL QUAIL FOR FIVE YEARS—PROVISO.] That it shall be unlawful for any person or persons to kill, trap or destroy by any manner whatever, any quail in the Territory of Dakota for the period of five years :

Provided, That the counties of Union, Clay and Yankton, be and the same are hereby exempted from the provisions and effects of this chapter.

§ 2. PENALTY.] Any person or persons who shall violate section 1 of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined the sum of twenty-five dollars for each such quail so killed, trapped or destroyed, together with costs of prosecution.

§ 3. REWARD TO INFORMER.] Any person who shall give information which shall lead to the conviction of any person or persons guilty of violating any of the provisions of this law in any of the

counties of this Territory, excepting such counties as are exempted from the operations of this law as provided by section 2, shall receive as compensation for such service one half of any sum of money which may be collected as fine for such offense.

§ 4. All laws or parts of laws in conflict herewith are hereby repealed.

§ 5. This act shall be in force and effect from and after its passage and approval by the Governor.

ENDORSED.—Received at Executive Office, February 5, 1883, at 12:30 P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

Geo. H. Hand,
Secretary of the Territory.

Glanders.

CHAPTER 65.

AN ACT to Prevent the Spread of Glanders and to Provide for the Summary Destruction of Glandered Animals.

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

§ 1. PENALTY FOR HAVING IN POSSESSION GLANDERED ANIMALS.]
That it shall be and hereby is made unlawful for any person or corporation to own, have in possession, or in any manner keep, use or control any horse, gelding, mare, ass or mule inflicted with the disease commonly known as glanders; and each and every person or corporation that shall knowingly own, possess, or in any manner keep, use or control any glandered horse, gelding, mare, ass or mule, shall be deemed guilty of a misdemeanor, and shall be punished accordingly, and all such diseased animals shall be summarily destroyed as hereinafter provided.

§ 2. DUTY OF JUSTICE UPON COMPLAINT.] Whenever complaint in writing shall be made to a justice of the peace of the proper county in this Territory verified by oath or affirmation of the complainant, that any person or corporation owns, possesses, or in any manner, keeps, uses, or controls any horse, gelding, mare, ass or mule, infected with the disease commonly known as glanders, upon filing such complaint, it shall be the duty of said justice, immediately to cause notice to be served upon the person or corporation so owning, possessing, keeping, using or controlling said horse, gelding, mare, ass or mule, which notice shall set forth the matter of the complaint, and command such person or corporation forthwith to appear before said justice and show cause why the said justice should not issue a warrant for the destruction of such animal, and either complainant or the person or corporation summoned may demand a trial by jury of six men, to whom the hearing of the matter shall be submitted, and both parties shall be entitled to witnesses, to be summoned by subpoena as in other actions, and such examination and hearing shall be conducted in all respects as civil actions in such courts, and if the jury or court desire they may cause such person or corporation to bring such animal before them for inspection. Upon the conclusion of the trial the court or jury, if trial be had by jury, shall forthwith render a judgment or verdict, stating that the charge in the complaint is, or is not true, which judgment or verdict shall be final in the matter.

§ 3. DUTY OF JUSTICE AFTER VERDICT.] In case the verdict of said jury shall be that the complaint is true and that such animal is infected with glanders, said justice shall forthwith direct, by warrant, the owner or person or corporation having such diseased animal in possession forthwith to kill and bury, or otherwise destroy the same, which warrant may be served upon such owner, or person, or corporation, having possession of such diseased animal the same as a summons issued in justices courts is served; and in the case of a corporation, each officer thereof shall be responsible in this behalf for the acts of the corporation, and service may be made upon any officer thereof.

§ 4. PENALTY FOR DISOBEYING WARRANT.] If the owner, or person, or corporation having possession of such diseased animal, after having been served with the warrant as hereinbefore provided, shall for the period of twelve hours after such service, neglect or refuse to kill and bury, or otherwise destroy such diseased animal, then in that case such diseased animal shall be forthwith killed and buried, or otherwise destroyed, upon the order of said justice, directed to the person serving such warrant, or some other competent person to be named by the justice in the order, and the

officer or person executing the same shall make return thereof and thereon to the justice. The officer or person executing such order shall be entitled to a fee of ten dollars to be audited and paid as hereinafter provided.

§ 5. JUSTICE TO PRESERVE RECORD AND CERTIFY COSTS TO COUNTY BOARD.] The justice of the peace before whom any such proceeding shall be had shall enter in his docket a record of all such proceedings had by and before him pursuant to this act, and shall allow and tax all costs of the justice, officers, jurors, and witnesses the same, and in like manner as in criminal proceedings in justices courts, together with the fee provided herein for destroying such animal, which costs and fees shall be certified by him to the board of county commissioners, and shall be audited and paid out of the general county fund the same as costs in criminal actions before justices of the peace, but the justice may tax the costs against the complainant if he finds that the action was malicious or without probable cause, and such judgment for costs shall be enforced as judgments for costs in criminal cases, and execution may issue therefor.

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

Approved, February 5, 1883.

Hides.

CHAPTER 66.

AN ACT for the Protection of Hides and to Prevent the Destruction thereof, and to Punish Certain Offenses Concerning the Same.

Be it Enacted by the Legislative Assembly of Dakota Territory:

§ 1. HIDES OF SLAUGHTERED ANIMALS TO BE PRESERVED.] Any person who shall slaughter any neat cattle, for any purpose, in this Territory, shall keep the hides of such cattle at his or their place where such cattle were slaughtered, for a period of not less than ten (10) days, and such hides shall at all times be subject to inspection by stock growers and their agents and employes.

§ 2. UNLAWFUL TO DESTROY BRAND.] It shall be unlawful for

any person to cut or destroy any brand upon, burn or in any manner to destroy the hides of any neat cattle within this Territory.

§ 3. PENALTY.] Any person or persons who shall violate the provisions of the foregoing sections of this act shall be guilty of a misdemeanor.

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

Approved, March 6, 1883.

Highways.

CHAPTER 67.

ESTABLISHMENT OF ROADS BY CONSENT.

AN ACT for the Establishment of Public Highways by Consent.

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

§ 1. WHERE ROADS LOCATED WITHOUT VIEWERS.] Public roads may be established without the appointment of viewers, provided the written consent of all the owners of the land to be used for that purpose be first filed in the county clerk's office, and if it is shown to the satisfaction of the board of county commissioners that the proposed road is of sufficient public importance to be opened and worked by the public, they shall make an order establishing the same, from which time only shall it be regarded as a public road.

§ 2. WHO TO PAY EXPENSES.] If a survey of the establishment of the road named in the preceding section is necessary, the board of county commissioners before ordering such survey, shall require the parties asking for the establishment of such highway to pay the expenses of such survey.

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

ENDORSED.—Received at Executive Office, February 1st, 1883, at 11:30, A. M

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Husband and Wife.

CHAPTER 68.

WHEN MAY SELL AND ENCUMBER PROPERTY.

AN ACT Granting to the Husband or Wife Power to Control and Sell Real Property in Certain Case.

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

§ 1. WHEN HUSBAND OR WIFE MAY SELL OR ENCUMBER PROPERTY.] In case the husband or wife abandons the other and removes from the Territory and is absent therefrom for one year, without providing for the maintenance and support of his or her family, or is sentenced to imprisonment either in the county jail or territorial penitentiary for the period of one year or more, the District Court of the county or judicial subdivision where the husband or wife so abandoned or not imprisoned resides, may, on application by affidavit of such husband or wife, setting forth fully the facts, supported by such other testimony as the court may deem necessary, authorize him or her to manage, control, sell or encumber the property of the said husband or wife for the support and maintenance of the family, and for the purpose of paying debts contracted prior to such abandonment or imprisonment. Notice of such proceedings shall be given the opposite party, and shall be served as summons are served in ordinary actions.

§ 2. CONTRACTS MADE TO BE BINDING ON BOTH, ETC.] All contracts, sales or encumbrances made by either husband or wife by virtue of the power contemplated and granted by order of the

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

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

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

Approved, February 23, 1883.

Insurance.

CHAPTER 69.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 9. WHAT REAL ESTATE COMPANY MAY HOLD—SALE.] No company organized by or under this act, shall purchase, hold or convey real estate, except for the purpose and in the manner herein set forth, to-wit:

1. Such as shall be requisite for its convenient accommodation in the transaction of its business; or,

2. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for money due ; or,

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in their legitimate business, or for money due ; or,

4. Such as have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts. And it shall not be lawful for any such company to purchase, hold or convey real estate in any other case, or for any other purpose.

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

§ 11. BY-LAWS—SEAL.] The incorporators or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the constitution or laws of this Territory, as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same, when necessary, to alter and amend. And they and their successors may have a common seal, and change and alter the same at their pleasure.

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

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

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

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

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

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

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

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

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

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

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

First. The name of the company and where located.

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

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

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

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

2. The amount of cash on hand in office.

3. The amount of cash on deposit in bank.

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

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

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

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

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

Fifth. The liability of such company, specifying:

1. The amount of losses and yet unpaid.

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

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

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

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

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

7. The amount of all other existing claims.

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

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

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

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

Seventh—Expenditures during the preceding year, specifying :

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

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

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

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

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

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

7. The whole amount of all other expenditures.

Eighth—Specifying :

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

2. The whole amount of risks outstanding.

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

4. The number of agents in this Territory.

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

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

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

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

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

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

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

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

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

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

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

The par and market value of the same.

Amount loaned on bond and mortgage.

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

Also stating the indebtedness of the company.

The amount of losses adjusted and unpaid.

The amount incurred and in process of adjustment.

The amount resisted by the company as illegal and fraudulent.

And all other claims existing against the company.

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

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

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

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

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

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

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

§ 30. EXAMINATION BY AUDITOR OR HIS APPOINTEE.] It shall be the duty of the Territorial Auditor, whenever he shall deem it expedient so to do, in person or by one or more persons appointed by him for that purpose, not officers or agents of, or in any manner interested in, any insurance company doing business in this Territory, except as policy-holders, to examine into the affairs of any insurance company incorporated in this Territory or doing business by its agents in this Territory; and it shall be the duty of the officers or agents of any such company, doing business in this

Territory, to cause their books to be opened for the inspection of the Auditor or the person or persons so appointed, and otherwise to facilitate such examinations so far as it may be in their power to do, and to pay all reasonable expenses incurred therein. And for that purpose the said Auditor, or person or persons so appointed by him, shall have the power to examine, under oath, the officers and agents of any company, relative to the business of said company. And whenever the said Auditor shall deem it for the best interests of the public so to do, he shall publish the result of said investigation in one or more papers in this Territory.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved, March 9, 1883.

James River.

CHAPTER 70.

TO PRESERVE THE WATERS FOR DOMESTIC PURPOSES.

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

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

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

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

and shall be subject to a fine of not exceeding one hundred dollars, to be recovered before any justice of the peace or judge of the county in which the offense is committed.

§ 3. FURTHER PENALTY.] That upon conviction, the person or persons so convicted, shall be ordered by the judge or justice of the peace before whom the conviction is had, to remove the substances and shall be liable to a fine of five dollars for each day he or they shall neglect to remove the same after being so ordered. The fines mentioned in this act shall be recovered upon complaint of any person and disposed of as other fines.

§ 4. This act shall take effect immediately upon its passage and approval.

Approved, March 7, 1883.

Judicial Districts.

CHAPTER 71.

JUDICIAL SUBDIVISIONS.

AN ACT to Amend Section 8 of Chapter 84 of the Laws of 1881.

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

§ 1. BROOKINGS AND HAMLIN COUNTIES.] That subdivision seven (7) of section 8 of chapter 84 of the laws of 1881 be amended to read as follows:

“7. Brookings and Hamlin: The counties of Brookings and Hamlin constitute one subdivision and the district court shall be held therein at Brookings, in Brookings county, on the second Tuesday of June in each year.

§ 2. KINGSBURY COUNTY.] That subdivision eight (8) of section 8 of said chapter be amended as to read as follows:

“8. Kingsbury: The county of Kingsbury constitutes one subdivision and the district court shall be held therein at the county seat of said county of Kingsbury on the third Tuesday of June in each year.”

§ 3. DEUEL.] That subdivision nine (9) of section 8 of said chapter be amended to read as follows :

“9. Deuel: The county of Deuel constitutes one subdivision and the district court shall be held therein at the county seat of the said county of Deuel on the fourth Tuesday of June in each year.”

§ 4. CODINGTON AND CLARK.] That subdivision ten (10) of section 8 of said chapter be amended to read as follows :

“10. Codington and Clark: The counties of Codington and Clark constitutes one subdivision and the district court shall be held therein at the county seat of Codington county on the first Tuesday after the fourth Tuesday in June in each year.”

§ 5. GRANT AND DAY.] That subdivision eleven (11) of section 8 of said chapter be amended to read as follows :

“11. Grant and Day: The counties of Grant and Day constitute one subdivision and the district court shall be held therein at the county seat of Grant county on the second Tuesday after the fourth Tuesday in June of each year.”

§ 6. LAKE.] That the following subdivision be added to section 8 of said chapter, to be known as subdivision twelve (12).

“12. Lake: The county of Lake constitutes one subdivision and the district court shall be held therein at the county seat of said county on the fourth Tuesday of May in each year.

§ 7. This act shall take effect after its passage and approval.
Approved, March 7, 1883.

Jurors.

CHAPTER 72.

MANNER OF DRAWING AND SUMMONING JURORS.

AN ACT to Provide for the Drawing and Summoning of Grand and Petit Jurors in Counties Organized into Civil Townships.

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

§ 1. DUTY OF COUNTY COMMISSIONERS.] That in every county in this Territory organized into civil townships wherein a district

court is appointed or directed to be holden, the names of two hundred persons who are qualified to act as jurors shall be selected in the manner hereafter provided, from which to draw the grand and petit jurors. The board of county commissioners of such counties shall, as near as may be, apportion *pro rata* the said number of names among the several townships in their respective counties, and the basis of such apportionment shall be the proper names on the several assessor's lists for the year preceding the making or filling of such list of names for jurors.

§ 2. CLERKS OF TOWNSHIPS TO POST NOTICES.] Whenever the county commissioners of any such county shall have determined the number of such names for each of the townships in the county, the county clerk of the county shall forthwith notify the township clerks of said townships of the apportionment of their respective townships, and said township clerks shall immediately thereafter cause to be posted in three public places in his township a notice in writing that the board of supervisors of the township will meet to draw the names of qualified jurors of the township to make up the grand and petit jurors' list of the county. Such notice shall state a place and hour of such meeting within the township, and designate a day not less than five nor more than ten days from the date of such notice.

§ 3. SUPERVISORS TO SELECT JURORS—MANNER OF.] Upon the day mentioned in section two of this act, the board of supervisors of the township shall meet at the time and place mentioned in such notice, and select from the resident taxpayers of said township twice as many names as near as may be as is apportioned to the township by the county commissioners, and the township clerk shall at such meetings write the name of each person so selected on a separate ticket, and also record a list of said names so written and selected in a book to be kept for that purpose. The supervisors shall then compare the names on said tickets with such recorded list of names and satisfy themselves that said tickets are correct. The tickets shall then be folded, placed in a box or some other receptacle and shaken up. One of the board of supervisors shall then select by lot from the tickets in said box or receptacle the proper number of names so apportioned to his township, and the township clerk shall then record in a book to be kept for that purpose, such names in the order in which they are drawn

§ 4. CLERK TO SEND LIST TO CLERK OF COURT.] The township clerk immediately thereafter shall forward by mail to the clerk of the District Court of his county a list of the names so drawn, and such clerk of the court shall make out and record in a book to be used for that purpose, a list of the names returned by the several townships of the county; but the failure of the officers of one or

more townships to perform their duty as herein before provided, shall not invalidate said list made up by the clerk of the District Court.

§ 5. FORMATION OF COUNTY BOARD TO SELECT JURORS.] Within two days from the receipt of the order of the judge of the District Court, directing a jury to be summoned, the clerk of the District Court or his deputy in case such clerk of the court does not act, and the county clerk, county treasurer and sheriff, or a majority of them, shall meet together at the county seat. In case the sheriff shall be disqualified by reason of being a party to any suit pending in said District Court, or suspension from office, the coroner shall serve with said officers in place of the sheriff. The meeting of said officers shall be after notice in writing has been served the same day upon them, or their deputies, or by leaving a copy of said notice in their respective offices in case any such officer or deputy is absent from the county seat. Said notice must be served by the said clerk of the court, and must state therein the object to be to draw names for jurors of the next term of the District Court, and the place and time of such meeting.

§ 6. MANNER OF DRAWING JURORS.] At such meeting the clerk of the District Court or his deputy shall write the name of each person on said juror list on a separate ticket, and the remainder of the officers at such meeting shall compare such tickets with said list, and when all of said names on said tickets are found to correspond with said list, the said tickets shall then be folded and placed in a box or some suitable receptacle and shaken.

§ 7. SAME.] One of said county officers, other than the clerk of the District Court or his deputy shall then proceed to draw enough of said tickets to equal the number of jurors directed to be summoned by the Judge of the District Court, and the clerk of the court or his deputy shall record such names in the order in which they are drawn in a book to be kept for that purpose. 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 be liable to serve as petit jurors.

§ 8. DUTY OF CLERK OF COURT.] The clerk of the court shall on the day of the drawing as last herein provided, issue a venire or venires, as the case may be, directed to the proper officer of the county 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.

§ 9. NUMBER OF NAMES TO BE KEPT AT MAXIMUM.] That such number of two hundred names 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 said number of two hundred full. And at the subsequent meeting the said board of commissioners shall proceed to apportion as hereinbefore provided for making up the whole of said list, and the same proceedings shall take place as to such names so required as are herein directed to be taken in making said full list, except that the board of supervisors of any township need not be specially called to draw any such names, but may do so at any regularly called meeting, provided that in the notice of such meeting the fact that names for a jury list are to be drawn shall be stated therein as heretofore provided.

§ 10. OLD MODE TO CONTINUE TEMPORARILY.] That the list made under the provisions of chapter nineteen of the Political Code shall stand as the jury list of such counties until the list provided for by this act shall be made.

§ 11. This act shall take effect immediately.

Approved, March 9, 1883.

CHAPTER 73.

FIREMEN EXEMPT.

AN ACT to Amend Section One of Chapter (86) Eighty-six of the General Laws of 1881, Approved February 11th, 1881.

Be it Enacted by the Legislative Assembly of Dakota Territory:

[§ 1.] FIREMEN EXEMPT FROM JURY DUTY.] That section one of chapter eighty-six of the General Laws of 1881, approved February 11th, 1881, be amended to read [as] follows: Section 1. That section one of chapter nineteen of the Political Code be amended by adding thereto the following words:

And provided further, That all members in good standing of

any regularly organized fire company shall be excused from serving as jurors in the courts of this Territory.

§ 2. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved, February 21, 1883.

CHAPTER 74.

WHEN JUDGE MAY ORDER JURY.

AN ACT to Amend Section Five (5) Chapter Nineteen (19) of the Political Code.

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

§ 1. JUDGE MAY ORDER JURY WITHIN THIRTY DAYS OF TERMS.] That section five (5) of chapter nineteen (19) of the Political Code be and the same is hereby amended by striking out the word "ten" where it occurs in the sixth line of said section and inserting in lieu thereof the word "thirty."

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

Approved, March 6, 1883.

Land Drainage.

CHAPTER 75.

AN ACT to Enable the Land Owners of Lands to Drain and Reclaim them :
Prescribing the Powers and Duties of County Commissioners and Other
Officers in the Premises and to Provide for the Repair, and Enlargement of
Such Drains.

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

§ 1. OFFICERS OF COUNTY OR TOWN MAY CAUSE CONSTRUCTION OF DRAIN.] That the board of county commissioners of any county, or the board of supervisors of any organized township, shall have power at any regular session, when the same shall be conducive to the public health, convenience or welfare, or when the same will be of public benefit or utility, to cause to be constructed as hereafter provided, any ditch, drain or water-course within said county or township.

§ 2. PETITION. APPOINTMENT OF VIEWERS AND OTHER DUTIES ETC.] That before the board of commissioners or board of supervisors shall establish any ditch, drain, or water-course, there shall be filed with the register of deeds (or the clerk of the township) of such county, a petition signed by one or more of the land owners whose lands will be liable to be affected by or assessed for the expense of the construction of the same, setting forth the necessity thereof with a general description of the proposed starting point, route and terminus, and such petitioner or petitioners shall give a bond with good and sufficient freehold securities payable to the Territory to be approved by the register of deeds or township clerk, conditioned to pay all expense in case the board of commissioners or board of supervisors shall fail to establish said proposed ditch, drain or water-course. As soon as said petition is filed said boards shall, if in regular session or at any regular session, appoint three resident freeholders of the county or township not interested in the construction of the proposed work, and not of kin to any parties interested therein, as viewers, to meet at a time and place specified by said boards, preparatory to commencing their duties as hereinafter specified. And it shall be the duty of the register of deeds or clerk thereupon to issue to said viewers a certified copy of the petition and order of the board, who shall proceed at the time set in said order, with a surveyor, who shall be a civil engineer, and shall make an accurate survey of the line

of said ditch, drain or water-course from its source to its outlet, and they shall cause stakes or monuments to be set along said line, numbered progressively down stream at each one hundred feet. And they shall make a computation of the total number of cubic yards of earth to be excavated and moved from said drain, ditch or water-course, and an estimate of the total cost of construction of the whole work. And they shall set apart and apportion to each parcel of land, and each corporate road or railroad, and to the county and townships when public highways are benefited, a share of said work in proportion to the benefits which will result to each from such improvement and give location of each share, its length in feet, and the estimated number of cubic yards of earth to be removed therefrom, and the price per cubic yard, and the cost of the construction of each or allotment separately, and specify the manner in which the work shall be done. And they shall have power where they find it necessary, to provide [for] running said ditch under ground through drain tiles or other materials as they deem best, by specifying the size and kind of tile or other material to be used in such underground work, and shall estimate the cost of the same as a part of the total cost of the work, and they shall accurately describe as the same is described on the county or township tax-duplicate, each parcel of the land to be assessed for the construction of said ditch, giving the number of acres in each tract assessed, and the estimated number of acres benefited; the amount that each tract of land will be benefited by the construction of said work and the amount that each tract is assessed therefor. And they shall, in tabular form, give the depth of cut, the width at the bottom and width at the top, at the source, outlet, and at each one hundred foot stake or monument of said ditch, drain or water-course. And they shall also ascertain and give the names of the owners of the lands that are assessed for construction of said ditch, drain or water-course as far as they can be ascertained with reasonable inquiry and search of the public records, and report also whether or not the proposed ditch or drain will be of public utility.

§ 3. DUTY OF VIEWERS WHERE PROPOSED DRAIN OCCUPIES A PRIVATE DITCH.] Whenever a public ditch, drain or water-course is located wholly or in part in the bed of a private ditch already or partially constructed, the viewers shall make an estimate of the number of cubic yards of earth already excavated and the cost of same on each tract of land and deduct the same from the assessment thereon.

§ 4. LANDS BENEFITED BY DRAIN TO PAY COSTS.] All lands benefited by a public ditch, drain or water-course shall be assessed in proportion to the benefit for the construction thereof, whether

it passes through said lands or not, and the viewers in estimating the benefits to lands not traversed by said ditch shall not consider what benefits such lands will receive after some other ditch or ditches shall be *construed* [constructed] but only the benefits that will be received by reasons of the construction of the public ditch, as it affords an outlet for the drainage of such lands.

§ 5. VIEWERS—DISCRETIONARY POWERS.] In locating a public ditch, drain or water-course, the viewers may vary from the line described in the petition as they deem best,

Provided, They commence the ditch at the point described in the petition and follow down the line therein described as near as practicable, and

Provided, further, That when there is a sufficient fall in length of the route described in the petition to drain the lands adjacent thereto, they may extend the ditch below the outlet named in the petition far enough, not exceeding one-half mile, to obtain a sufficient fall and outlet [and] not be detrimental to the usefulness of the whole of the work; they shall as far as practicable locate the ditch on division lines between lands owned by different persons, and they shall so far as practicable avoid laying the same diagonally across the lands but they must not sacrifice the general utility of the ditch to avoid diagonal lines. And all persons whose lands may be affected by said ditch may appear before said viewers and freely express their opinions on all matters pertaining thereto.

§ 6. DAMAGES.] In locating a public drain or water-course, the viewers shall estimate the damages, if any, that any person or persons will sustain by reason of the construction of such ditch and assess such damages to parties owning the lands benefited in proportion *in* as each tract of land is assessed for benefits.

§ 7. CONCERNING ROUTE OF DITCH.] The viewers, if they find the route proposed is not such as best to effect the object sought, or that the proposed drainage can be effected as well in construction with a ditch necessary for the improvements of public highways already established or such as may be thereafter required, shall proceed to establish the route. If the route proposed is upon a section line where a public road may be required, and in all cases in which the route proposed is along highways already established, the viewers shall locate the ditch at a sufficient distance from center of such highways to admit of a good road along such central line. The earth taken from the ditch shall be so placed upon the roadway as to form a turnpike and no nearer to the margin thereof than two feet. But in locating a drain as above, the viewers shall not materially depart from the terminal points described in said petition.

§ 8. VIEWERS—WHEN TO MEET—REPORT, ETC.] Said viewers may, after having met at the time and place specified in the order issued to them by the register of deeds or township clerk, proceed immediately to perform their said duty or adjourn from time to time as best suits their convenience, and file their report with the register of deeds or township clerk at least four weeks before the next regular meeting of said boards;

Provided, The water be high or the weather inclement, they shall not be compelled or required to file the report until at least four weeks before the second regular meeting of said board after having received their orders from the register of deeds or township clerk, but their report must then state the reason for such postponement. And if the viewers find the proposed ditch, drain or water-course not of public benefit or utility, they may report against the location of the same, in which case their report need only state that they find the proposed work not to be of public benefit or utility.

§ 9. DUTY OF CLERK WHEN REPORT IS FILED.] It shall be the duty of the register of deeds or township clerk on said report being filed, if it be in favor of the proposed work, to cause a notice to be given a publication for three consecutive weeks, by posting three copies of said notice in three public places in the township or townships where the proposed work is located, and one at the door of the court house in said county, of the pendency of said petition and *at* [of] the time set for the hearing thereof, which notice shall briefly state where said ditch commences at its source, through whose land it passes and where it terminates at the outlet, together with the names of the owners of the lands that will be affected thereby so far as these can be ascertained with reasonable inquiry, and search [from] the public records in the offices of the township clerk, register of deeds and treasurer, and at the same time the register of deeds or township clerk shall mail a copy of the same to all non-residents whose address is known to him or can be ascertained by inquiring at the treasurer's office.

§ 10. WHEN COUNTY COMMISSIONERS SHALL ESTABLISH DRAIN.] Said board of commissioners or board of supervisors at the time set for the hearing of said petition shall if there is no remonstrance filed, proceed to hear said petition, and [if] they find the reviewers report is made in accordance with the provisions of this act and it be in favor of the proposed work, and [if] they find the proposed drain to be of public utility or conducive to public health or of public benefit or convenience, they shall establish the same as specified in the report. But if the viewers report against the proposed work the board shall dismiss the petition and tax the cost as hereinafter provided, and, when damages are awarded to any person or persons or corporation as provided by this act,

the board of commissioners or board of supervisors shall order the same to be paid out of the county or township treasury to the person, persons or corporation entitled thereto.

§ 11. REMONSTRANCE.] It shall be lawful for any person interested in the location of said proposed work to file with the board of commissioners or township board, at or before the time set for the hearing of the petition, a remonstrance against the ditch as located by viewers on and across his lands, by setting forth his grievances therein, and any person deeming his assessment too high or the damages allowed too low, may remonstrate for such reasons against the action of the viewers. Any person filing a remonstrance shall file with the same a bond payable to the Territory with not less than two freehold sureties conditioned for the payment of all costs and expenses caused by such remonstrance, if any action of the viewers be sustained by viewers to be appointed as hereinafter provided; such bond to be approved by the board of commissioners or township boards, and thereupon said board shall appoint three disinterested resident freeholders of the county or townships, not of kin to any person interested in the proposed work, as viewers, to meet at a specified time and place preparatory to commencing said review, and it shall be the duty of the register of deeds or township clerk thereupon to issue to said reviewers a certified copy of the petition and remonstrance and order of the board in appointing such reviewers.

§ 12. REVIEWERS—DUTY OF.] Such reviewers shall meet at the time and place specified in the order issued to them by the register of deeds or township clerk and proceed to review the action and report of the viewers as well as the entire premises through which the proposed work extends, and shall be vested with all power granted to the viewers originally except that [if] they find [the] proposed work of public benefit or utility they shall not change the line of the ditch as located by the viewers at any other place or places than those complained of in the remonstrance, and then only far enough to do justice to the party remonstrating. And they shall, before commencing said review, obtain from the register of deeds or township clerk, the report of the reviewers which they shall carefully preserve and return to said officers when they have completed this review, and they shall file with said officers a report of their proceedings in the premises after having subscribed and sworn to the same, at any time before the next regular meeting of said board, and if the reviewers sustain the action of the viewers and make no change in the proposed work, their report need only state, after having made full examination of the viewers report, as well as the entire premises through which the proposed work extends, they find the action of the

viewers just and correct, and that they sustain and approve the action of the viewers and their report.

§ 13. PROCEEDINGS ON REPORT OF REVIEWERS.] Upon the filing of the report of such reviewers as required by the preceding section, the register of deeds or township clerk shall, when the board of commissioners or board of supervisors convenes in regular session, record the same, together with the proceedings had in the matter of the petition, and if said reviewers sustain and approve the action of the viewers without change, all cost occasioned in consequence of the filing of the remonstrance shall be taxed against parties remonstrating, and a *free* [fee] bill shall issue thereon by the register of deeds or township clerk and be collected as provided by law.

§ 14. COSTS OF REMONSTRANCE—HOW PAID.] If the reviewers find the proposed work of public benefit or utility and do not sustain the entire action of the viewers but make changes in favor of the remonstrants, the cost occasioned in consequence of the filing of the remonstrance shall be taxed as a part of the total cost of the work as the same is taxed against the parties benefited in proportion to their benefits, and if the viewers find the proposed work not of public benefit or utility, the entire cost shall be taxed against the petitioners and collected as provided in section 13 of this act.

§ 15. ADOPTION OF REVIEWERS REPORT.] Upon the filing of the report of the reviewers the board of commissioners or the township board, shall, if they find such report made in accordance with the provisions of this act, establish the same as described in the report of the viewers as they find the same sustained, correct or changed in the report of the reviewers.

§ 16. PROCEEDINGS AFTER ADOPTION OF REPORT.] Whenever the board of commissioners or township board establish a public ditch, drain or water-course, they shall order the viewers, if the same is established without remonstrance according to the viewers report, or the reviewers if the same is established according to their report, to meet at a time and place specified after a lapse of ten days and make a final report in which they shall specify the time in which each share or allotment of the ditch shall be constructed and completed, and they shall apportion the cost of the location thereof, including printer's fees, damages, if any shall have been allowed and compensation to the laborers who assist the viewers in marking out the ditch, and award to each person or persons or corporation owning the lands assessed for the construction of said work, their proportionate share of said cost, and shall specify the time [in] which costs and expenses shall be paid to the county or township treasurer, and file their report with the

register of deeds or township clerk after having subscribed and sworn to the same. And it shall be the duty of the viewers and the reviewers to file with the report an account of the names of the laborers, and the time each was employed by them, and all compensation and damages allowed by this section shall be collected by the treasurer as the other taxes are collected, and the compensation paid out when collected, on an order from the register of deeds or township clerk to the parties entitled thereto, and the damages, when collected, shall be placed into the county or township fund to compensate the county or township for the damage previously paid as required by section 10 of this act.

§ 17. APPEALS.] Any person or corporation aggrieved thereby may appeal from any final order or judgment of the board of commissioners or township board, made in the proceedings and entered upon their record, determining either the following manner, viz.: Whether said ditch will be conducive to public health, convenience or welfare; whether the route thereof is practicable; whether the assessments made for the construction of the ditch are in proportion to the benefits to be derived therefrom; the amount of damages allowed to any one person or persons, or corporations, and the appellant shall file with the register of deeds or township board an appeal bond, with at least two freehold sureties to be approved by the register of deeds or township clerk, and the clerk of district court, conditioned that he will prosecute such appeal, and pay all costs that may be adjudged against him in the district court.

Provided, That such appeal bond shall be filed within thirty days after such final order or judgment of the board of commissioners is made and after the lapse of such thirty days no appeal can be taken. And if an appeal be taken, the register of deeds or township clerk shall withhold his notices to the viewers or reviewers to make their final report, and he shall within twenty days after the appeal bond is filed, make a complete transcript of the proceedings had before the board of commissioners or board of supervisors and of such appeal bond, and certify the same, together with all the papers filed in his office, pertaining to such proposed work, to the clerk of the district court.

§ 18. WHEN MORE THAN ONE PARTY APPEALS—DUTY OF JUDGE.] If more than one party appeal the Judge of the district court shall order the cases to be consolidated and tried together and the rights of each party shall be separately determined by the jury in its verdict.

§ 19. SALE OF WORK TO THE LOWEST BIDDER.] As soon as the final report of the viewers or reviewers is filed, the register of deeds or township clerk shall sell the jobs of digging and

constructing each share or allotment separately, of the entire work, and he shall give notice for three consecutive weeks, by posting three written copies of such notice in three public places in the vicinity of the proposed work, and one at the door of the court house in said county, of the time and the place he will sell, to the lowest responsible bidder or bidders, each and every share and allotment thereof, commencing at the one including the outlet, and thence in succession up stream to the one including the source, and no bid shall be entertained which exceeds more than twenty per cent. over and above the estimated cost of the construction in any case, and the register of deeds or township clerk shall contract with the party to whom a share or allotment is sold requiring him to construct such share or allotment in the time and manner set forth in the report of the viewers or reviewers on which the ditches are established, and shall take from him a bond with two freehold sureties, payable to the Territory, for not less than double the amount for which the same is sold, to be by him approved, conditioned that he will faithfully perform and fulfill his contract and pay all damages which may accrue by reason of the failure to complete the job within the time required in the contract therefor.

§ 20. RE-SELLING.] A job [failing] to be completed within the time fixed in the contract and bond shall be re-sold by the register of deeds or township clerk to the lowest responsible bidder, but shall not be sold for a sum exceeding twenty per cent. of the estimated value of such work, nor a second time to the same party; a contract and bond shall be entered into as hereinbefore provided, but the auditor may for a good cause shown, give full time to any contractor not exceeding sixty days, and the register of Deeds or township clerk, shall fix a time for the completion of work re-sold not exceeding sixty days from the date of the bond, and no contractor shall be prosecuted on his bond until the section below is completed.

§ 21. INSPECTION OF WORK.] It shall be the duty of the county surveyor, on being notified by any contractor that his job is completed, to inspect the same and if he find that it is completed according to contract he shall accept it and give to the contractor a certificate of acceptance stating that said job, share or allotment is completed according to the specifications of said ditch, and if any share or allotment has been sold to a person not the owner of the land assessed therefor, he shall in addition state the amount due the contractor for constructing the same, from the owner of the said land, which certificate shall be a lien upon the land assessed for such share or allotment, and shall be due and payable immediately by the owner of the land, which shall be a

lien upon the land assessed for such share or allotment and shall be due and payable immediately by the owner of the land; such certificate if not paid on demand shall draw interest until paid, and if the allotment sold belongs to a non-resident of the county or the township, the register of deeds or township clerk shall state such fact when he offers it for sale, and when the county surveyor accepts it and issues his certificate of acceptance, he shall file with the register of deeds or township clerk a copy thereof, whereupon said register of deeds or township clerk shall charge the amount mentioned in said certificate on the tax duplicate against the land assessed, with such allotment, to be collected as other taxes are collected together with six per cent. for the holder of the certificate after the same becomes delinquent, and when collected it shall be paid to the [person] holding the certificate on an order of the register of deeds or township clerk.

§ 22. REPAIRS AND CLEANING DRAINS AND DITCHES.] Every person or corporation through whose lands any public ditch is constructed, shall be required to keep the same open, free and clear of all obstructions upon his or its premises by him or it placed thereon, and in case of a failure to do so shall be liable to pay all reasonable and necessary expenses of removing such obstruction. A person or corporation aggrieved by any such obstruction [may] make a sworn statement of the facts to the county surveyor who shall proceed to examine the premises and inquire into the truth of the statement, and if he finds the statement to be true he shall immediately notify the owner of the land on which such obstruction exists to remove the same within a reasonable time, not exceeding twenty days; and if the owner so notified fail to remove the obstruction the surveyor shall at once cause the same to be removed at the expense of such owner, and certify such expense to the register of deeds or township clerk, who shall place the same, together with all fees and other expenses in the case, on the tax duplicate as an assessment upon the lands of such person or corporation, and the same shall be a lien upon such lands and shall be collected as other taxes.

§ 23. SAME.] After the construction of such work, the town supervisor of such township in which the same is, or any part thereof, shall keep the same or such part thereof in proper repair and free from obstructions so as to answer its purpose, and pay for the same out of general township fund; and to raise the necessary money to reimburse that fund he shall apportion and assess the costs thereof upon the lands which will be benefited by such repairs, or removal of obstruction, according to such benefits in his judgment. He shall make a statement of such assessment and deliver the same to the register of deeds or township clerk

who shall put same upon the succeeding tax duplicate, and it shall be a lien upon the lands and be collected in same manner as Territory, townships and county taxes. The provisions of this section shall also apply to all works constructed for the purpose of drainage under any law now or heretofore in full force in this Territory. If he shall be of the opinion that such assessment or any part thereof ought to be charged to lands in other townships, the supervisors thereof shall, on request, meet with him at any time and place by him appointed, and they shall jointly make such assessments and certificates to the register of deeds or township clerks of the proper counties or township. A majority of such supervisors as attend any such meeting shall have power to act and decide any question and to make the assessments and certificates, and upon failure of any township supervisor to perform the work required of him by this section, after ten days notice in writing to him by any person interested, he shall be liable with his sureties on his official bond for all damages caused by such failure to perform his duty, to be recovered by the person or persons so damaged. He shall so [also] be *deem* [deemed] guilty of a misdemeanor, and on conviction thereof fined not less than ten or more than fifty dollars.

§ 24. WHEN DITCH CROSSES TWO OR MORE TOWNSHIPS OR COUNTIES.] Whenever the route of a proposed ditch, drain or water course extends into two or more counties or two or more townships, the [petition] shall be signed by one or more of the land owners in each county or township whose land will *will* be liable to be assessed for the construction of such ditch, and filed with the register of deeds or the clerk of the townships of the county containing the head or source of the proposed ditch, at least ten days before any regular meeting of the board of commissioners or board of supervisors, and thereupon the register of deeds or township clerks of such county or townships shall transcribe and transmit to the register of deeds of each other county, or the township clerk of each township interested, a certain copy of such petition; and it shall be the duty of the board of commissioners of each county, or the board of supervisors of each township interested in the proposed work, at their first regular meeting after such petition is filed, to appoint three disinterested resident freeholders of their respective counties or townships as viewers in like manner as provided for the appointment of viewers on a ditch in one county or township, to meet and act conjointly at such time and place as the board of commissioners of the county or township where the petition is filed may designate, and such joint viewers shall have the same powers and perform the same duties as provided in this act for the viewers on a ditch in one county or township, and they shall file a report of their proceedings with

the register of deeds of each county interested, at least four weeks before the next regular session of the board of commissioners or board of supervisors, whereupon the register of deeds of each county, or the township clerk of each township shall give notice for three consecutive weeks in the manner provided for ditches in but one county or township, of the pendency of such petition and the time set for the hearing thereof.

§ 25. PROCEEDINGS IN CASE OF JOINT DITCH.] The board of commissioners of the counties, or the board of supervisors of the townships interested in a joint ditch, shall, at the time set for the hearing of said petition, proceed to establish the same in the manner specified for ditches in but one county or township, and in all matters pertaining to such joint ditch the boards of commissioners or board of supervisors shall act in the same manner, so far as applicable, as required by this act establishing ditches in but one county or township, and they shall act conjointly; and when such ditch is established the viewers shall be notified as before provided in this act, to make their final report, and upon the filing of such final report the shares or allotments of such ditch shall be sold and constructed as hereinbefore provided for ditches in but one county or township, except that the register of deeds of the counties or the clerk of the townships interested shall act together as one body in performing their duties.

§ 26. REPAIRS OF JOINT DITCHES.] Such joint ditch shall be cleaned and repaired or enlarged in like manner as for ditches *but* in one county or township, by the joint action of the public officers of the counties or townships interested.

§ 27. REMONSTRANCE IN CASE OF JOINT DITCH.] It shall be lawful for any person or corporation affected by a proposed ditch extending into more than one county or township to file a remonstrance with the register of deeds of the county, *in which* or the township clerk of the township in which he resides, at least five days before the regular meeting of the board of county commissioners or the township board, when the petition is to be heard; and when such remonstrance has been filed and a bond for costs as provided for ditches in but one county or township, the register of deeds shall immediately, or township clerk shall immediately transcribe and transmit a copy of such remonstrance and bond to the register of deeds of the other counties, or township clerk of other townships interested, and then in like manner as hereinbefore provided, the boards of commissioners or board of supervisors, shall appoint reviewers who shall meet and act together and perform their duties as provided for reviewers in one county or township, and file a report of their proceedings with their respective boards of commissioners, or boards of supervisors, at or before

their next regular meetings, and upon the filing of such report the boards shall, if the viewers report the proposed work of public benefit or utility, establish the same, and it shall be constructed, cleaned and repaired or enlarged by the joint action of the proper officers in the different counties or townships, as though it *may* had been established on the report of the viewers and without remonstrance, and it shall be the duty of the register of deeds of the county, or the clerk of the township in which the time and place for the meeting of viewers or reviewers is fixed, to *to* notify the register of deeds of the other counties or clerks of other townships interested, of such time and place for the joint viewers or reviewers to meet.

§ 28. HIGHWAY OR RAILWAY BENEFITED TO PAY PROPORTION OF COSTS.] When any ditch established under this act drains either in whole or in part any public or corporate road or railroad, or benefits any of such roads so that the road bed or graveled track of any such road will be made better by the construction of such ditch, the viewers or reviewers shall apportion to the county or township, or townships, if a county, [or] territorial road, to the company if a corporate road or railroad, *or railroad*, such portion of the costs and expenses thereof as to private individuals, and require them to pay said costs and perform said labor in like manner as individuals.

§ 29. PENALTY FOR OBSTRUCTING DRAIN, ETC.] If any person shall willfully obstruct any public ditch, or shall willfully divert the water from its proper channel he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than five or more than fifty dollars, and shall also be liable for any and all damage occurring to any person or persons or corporations by such act.

§ 30. SHERIFF TO SERVE ORDERS.] The orders issued by the register of deeds or township clerks to viewers or reviewers, shall be served by the sheriff or town constable and shall be paid by the county or township for such services the same fees as he is allowed by law for similar services.

§ 31. COMPENSATION.] The surveyor or engineer shall be allowed the sum of three dollars per day for each day he is necessarily engaged in performing the duties required of him by this act, which sum shall be paid to him quarter-annually out of the county or township treasury, upon his filing before the board of commissioners or board of supervisors an itemized account of his services verified by his oath, and the cost of publishing the notices of jobs to be let by the register of deeds or township clerk and all blanks and stationery required by him in the performance of his duties, shall be paid by the county or township. The viewers and

reviewers shall each be allowed two dollars per day for each and every day they are necessarily engaged in viewing and reviewing and ditching and making up and filing their reports, which sum shall be paid to them out of the county or township treasury. Each chainman, axman, rodman, and all other hands necessary to the prompt execution of the work of locating a public ditch shall be allowed one dollar and fifty cents per day for the time actually employed in, to be paid as hereinafter provided.

§ 32. MAJORITY OF VIEWERS COMPETENT TO ACT.] A majority of the viewers or reviewers shall be competent to perform the duties required of them by this act, provided that for ditches extending into more than one county or township there shall be present and acting a majority from each county or township interested.

§ 33. DEFINITION OF CERTAIN TERMS.] The terms "regular session" and "regular meeting" of the board of commissioners or board of supervisors as used in this act, shall be held to include only the regular session of such board, commencing on the first Tuesday of January and on the fourth Monday of July in each year, and the word "ditch" as used in this act shall be held to include a drain or water course, and the petition for any public ditch may include any side, lateral, spur or branch ditch necessary to secure the object of the improvement.

§ 34. ASSESSMENT TO BE A LIEN.] The amount of assessment made by the viewers and confirmed by the board of commissioners or board of supervisors, shall be a lien upon all land so assessed from the date of the order of the board of commissioners or board of supervisors establishing the ditch, drain, or water course, and such order together with the report of the viewers on which ditch is established, shall [be] notice to all the world of the existence of such lien, and this act shall be liberally construed to promote the drainage and reclamation of wet or overflowed lands and the amounts due to contractors holding the viewer's certificate of acceptance shall not be defeated by reason of any defect in the proceedings occurring prior to the order of the board of commissioners or board of supervisors establishing the ditch, but such order or judgment of the said board shall be conclusive that all prior proceedings were regular and according to law.

§ 35. COUNTIES EXEMPTED.] This act shall not apply to the counties of Yankton and Lincoln.

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

ENDORSED.—Received at Executive Office, March 5th, 1883, at 6:10, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Land Drainage Bonds.

CHAPTER 76.

AN ACT to Authorize the Board of Supervisors of the Several Organized Townships in this Territory and those that may be hereafter Organized, to Issue Bonds for the Purpose of Draining, Ditching, Grading or for other purposes.

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

§ 1. WHEN BONDS MAY BE ISSUED—ELECTION.] That whenever ten or more actual bonafide residents of any of the organized towns in this Territory or that may hereafter be organized, shall present a written petition to the board of supervisors of their respective towns, praying for the ditching, draining, grading or surveying the township or any major portion thereof, the said board of supervisors shall estimate the cost of such improvements, and, if they the said board of supervisors shall find the cost of said work as contemplated in the petition, shall exceed for the necessary machinery, implements, labor, etc., the sum of one thousand dollars, or that to meet said expense by a direct taxation upon the taxable property of said township, would be excessive and burdensome in any one year, then said board shall be authorized and it shall be their duty to submit to the voters of the township the question of the issue of the bonds of said town at a special or regular election, giving at least twenty days notice thereof, and specifying in the notices the specific purposes for which said election has been called, and the amount of bonds to be issued, which said notices shall be posted in at least five public places in said township.

§ 2. BALLOTS.] The ballots to be used at such election shall have printed or written or partly printed and partly written "For Township Bonds," or "Against Township Bonds." And if a majority of the legal voters of such township present and voting, shall be in favor of, and the majority of the ballots so cast shall be for township bonds, then said board of supervisors shall issue the bonds of the township.

§ 3. DESCRIPTION OF BONDS.] The bonds so issued, as provided for in section two of this act shall be known as town improvement bonds of township (giving the name or number of the town) and shall have coupons attached and numbers ; which said bonds shall run for a time not exceeding ten years, and to draw a rate

of interest not exceeding eight per centum payable annually, and that said bonds shall not be disposed of for less than their par value.

§ 4. BOND TAX.] The board of supervisors shall provide for the levy of sufficient taxes to provide for a sinking fund to pay said bonds when they shall become due, and also for a sufficient tax to pay the interest upon said bonds annually.

§ 5. MONEYS, HOW DISPOSED OF.] The money derived from the sale of said bonds, shall be paid to the township treasurer of such township, and shall be used under the direction of the board of supervisors, only on the construction of the work and for the necessary machinery, for which the bonds were issued and for no other purpose, and shall be paid only by the treasurer upon the order of the chairman of the board of supervisors when countersigned by the township clerk, and any violation of this section shall be a misdemeanor.

§ 6. RECORD OF BONDS, ETC.] The bonds before being sold shall be signed by the chairman of the board of supervisors and town clerk and countersigned by the township treasurer, and both the treasurer and clerk of the township shall keep a true record of said bonds showing the date of issue, to whom issued, the amount and number of each bond, date of maturity and rate of interest and the amount realized from the sale of the same.

§ 7. CONTRACTS.] All grading, ditching, levies or embankments constructed under the provisions of this act, shall be by contract and let to the lowest responsible bidder after due public notice, and the person to whom the contract shall be let shall be required before he shall enter into the contract, to enter into suitable bonds with two sureties to be approved by the board of supervisors, for the faithful performance of his contract, etc.

§ 8. ACT, HOW CONSTRUED.] Nothing in this act shall be construed so as to allow the said board of supervisors the right to run across or go upon private property without first securing the permission of the owner or owners of said property, other than that of section lines, neither shall it be construed so as to allow a ditch to terminate so as to cause water to flood private property, but all such ditches must be complete and empty into a ravine, cooley, water-course, river or stream.

§ 9. LIMIT OF TOWNSHIP INDEBTEDNESS.] The amount of indebtedness including outstanding bonds in any township shall not exceed five per cent. of the assessed valuation of said township as shown by the last assessment prior to the issuing of said bonds on the incurring of such indebtedness.

§ 10. EMPLOYMENT OF ENGINEER.] The board of supervisors may, if they shall deem it necessary to, employ a competent en-

gineer, to take a level of the townships for the purposes of finding the natural fall of the land.

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

ENDORSED.—Received at Executive Office, March 2, 1883, at 3 P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Legislative Assembly.

CHAPTER 77.

ENROLLING CLERKS AND EXTRA PAY TO OTHER OFFICERS.

AN ACT Authorizing the Employment of Assistant Engrossing and Enrolling Clerks and Appropriating Funds for the Payment of the Same, and to Provide for the Compensation of other Officers for Extra Service.

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

§ 1. COMMITTEE MAY EMPLOY CLERKS.] That the committee on engrossed and enrolled bills in the council and house are hereby authorized to employ assistant engrossing and enrolling clerks.

§ 2. COMPENSATION.] That the said assistant engrossing and enrolling clerks shall be allowed the sum of four dollars per day for each and every day employed, or shall be allowed the sum of ten cents per folio for each and every folio enrolled, which per diem for each day employed or work so done per folio shall be paid on a properly audited account, certified as correct by the chief clerks of the council and house of representatives.

§ 3. EXTRA ALLOWANCE TO OTHER OFFICERS.] That the chief clerk and assistant chief clerk of the council, the chief clerk and assistant clerk of the house, be each allowed the sum of fifty dollars, and the engrossing and enrolling clerk of the council and

house of representatives and the clerk of the judiciary committee of each house and the sergeant-at-arms, assistant sergeant-at-arms, messenger and fireman of each house be allowed the sum of twenty-five dollars each, and the pages of each house ten dollars each for extra services performed in the discharge of their respective duties.

§ 4. TO PAY FOR STATIONERY.] That the sum of three dollars and fifty cents is hereby appropriated for the payment of stationery purchased by the enrolling clerk of the council.

§ 5. APPROPRIATION.] Eight hundred and fifty dollars, or so much thereof as may be necessary, is hereby appropriated out of the territorial treasury for the payment of the sums above appropriated.

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

Approved, March 9, 1883.

CHAPTER 78.

ASSISTANT SERGEANT-AT-ARMS.

AN ACT to Employ Assistant Sergeant at-Arms for the Council and House of Representatives, and to Provide their Compensation.

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

§ 1. APPOINTMENT OF ASSISTANT SERGEANT-AT-ARMS AND DUTIES.] That there shall be appointed by the president of the council and the speaker of the house of representatives, each, one assistant sergeant-at-arms who shall discharge their several duties under the direction of the sergeant-at-arms of the respective houses, and during the absence of the sergeant-at-arms shall perform his duties as assistant, and they shall alternately serve as night-watchmen of the halls of the council and house of representatives.

§ 2. COMPENSATION.] That the *per diem* of said officers shall be four dollars each, to be audited and paid out of the territorial treasury upon an account certified by the respective presiding

officers of each house of the Legislative Assembly, and a sufficient sum to pay said certificates is hereby appropriated out of territorial funds not otherwise appropriated.

§ 3. That this act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, January 18, 1883.

CHAPTER 79.

CHIEF CLERKS.

AN ACT to Amend Section 13 of Chapter 2 of the Political Code.

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

§ 1. EXTRA PER DIEM TO CHIEF CLERKS.] Section 13 of chapter 2 of the Political Code is hereby amended by adding thereto the following, viz:

And the Territorial Auditor is hereby instructed on presentation of a verified account for not to exceed forty days as provided in the preceding section, and of proof that the records have been completed as herein required, to draw his warrant on the Territorial Treasurer for the amount of such account.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, March 5, 1883.

CHAPTER 80.

CLERKS OF JUDICIARY COMMITTEE.

AN ACT to Employ Clerks for the Judiciary Committees of the House of Representatives and Council, and to Provide for their Compensation.

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

§ 1. ELECTION OF CLERKS OF JUDICIARY COMMITTEE.] That there shall be elected and employed by the house of representatives and council, each, one clerk whose duty it shall [be] to act as clerk of the judiciary committee of the house of representatives and council when said committees are in session ; and it shall be the duty of such clerks when said committees are not sitting, to act as assistant engrossing and enrolling clerk of their respective houses.

§ 2. COMPENSATION.] That the *per diem* of such clerks shall be four dollars each to be audited and paid out of the territorial treasury, upon an account certified by the respective presiding officers of each house of the Legislative Assembly, and a sufficient sum to pay said certificates is hereby appropriated out of the territorial funds not otherwise appropriated.

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

Approved, February 1, 1883.

Licenses.

CHAPTER 81.

LICENSES IN UNORGANIZED COUNTIES.

AN ACT Authorizing County Commissioners to Grant License to Persons Living in Counties or Territory Unorganized, to which said Territory may be Attached for Judicial Purposes, to Sell Intoxicating Liquors.

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

§ 1. CERTAIN COUNTY COMMISSIONERS MAY GRANT LICENSE.] That the county commissioners of any organized county may grant license to sell intoxicating liquors to any person or persons residing in any unorganized counties or territory which is or may be attached for judicial purposes, to said organized county, upon such applicants complying with the law the same as if residents of such organized county ; the law as to the sale of intoxicating liquors shall apply in every respect the same as it would if the applicant resided in such organized county.

§ 2. APPLICATIONS, ETC.] All applications for a license to sell intoxicating liquors shall be made to the board of county commissioners and may be granted by said board, and no license shall run for a longer period than one year without renewal, and not for a longer period than the first Monday of January next ensuing the date of its issue.

§ 3. All acts and parts of acts in conflict with this act are hereby repealed.

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

ENDORSED.—Received at Executive Office, February 10, 1883, at 12 m.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Liens.

CHAPTER 82.

FILING TRANSCRIPT OF JUDGMENT IN OTHER COUNTIES.

AN ACT to Amend Section 300 of the Code of Civil Procedure.

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

§ 1. TRANSCRIPT OF JUDGMENT FILED IN ANOTHER COUNTY CONSTITUTES A LIEN.] That section 300 of the Code of Civil Procedure be amended to read as follows:

§ 300. On filing a judgment roll upon a judgment directing in whole or in part the payment of money, it may be docketed with the clerk of the court in which it was rendered in a book to be known as the judgment docket, and in any other county upon filing with the clerk of the District Court for said county a transcript of the original docket, and it shall be a lien on all the real property, except the homestead, in the county where the same is so docketed, of every person against whom any such judgment shall be rendered, and which he may have at the time of the docketing thereof in the county in which such real property is situated, or which he shall acquire at any time thereafter, for ten years from the time of docketing the same in the county where it was rendered, and no judgment heretofore rendered shall, after the passage of this act, become a lien on real property as herein provided, unless it be docketed in the county where the land is situated:

Provided, however, That when the land is situated in an unorganized county said judgment may be filed in the county to which such unorganized county is attached for judicial purposes, and it shall thereupon become a lien upon the land of the judgment debtor in such unorganized county; but when said unorganized county becomes organized the said lien must be filed in the office of the clerk of the District Court of such county within ninety days after the organization of such county, or it shall cease to be a lien upon such real estate. But whenever an appeal from any judgment shall be pending and the undertaking requisite to stay execution on such judgment shall have been given and the appeal perfected as provided in this Code, the court, in which such judgment was recovered may, on special motion, after notice to the person owing the judgment, direct the clerk to make an entry on the judgment docket that the judgment is secured on appeal, and

thereupon it shall cease, during the pendency of the appeal, to be a lien on the real property of the judgment debtor as against purchasers and mortgagees in good faith and for value.

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

Approved, February 14, 1883.

CHAPTER 83.

WHERE ACTIONS MAY BE BROUGHT.

AN ACT to Amend Section Six Hundred and Sixty-seven of the Code of Civil Procedure.

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

§ 1. WHERE ACTIONS MAY BE BROUGHT. CONSOLIDATION OF LIENS.] That section six hundred and sixty-seven of the Code of Civil Procedure be amended to read as follows:

Section 667. Any person having a lien by virtue of this chapter may bring an action to enforce the same in the district court of the county or judicial subdivision where the property is situated, and any number of persons claiming liens against the same property may join in the same action, and when separate actions are commenced the court may consolidate them. The court may also allow as part of the costs the money paid for filing each lien and the sum of five (5) dollars for drawing the same.

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

Approved, March 9, 1883.

CHAPTER 84.

SUB-CONTRACTORS.

AN ACT to Amend Section 656 of the Code of Civil Procedure.

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

§ 1. PROCEEDINGS BY SUB-CONTRACTORS.] That section six hundred and fifty-six of the Code of Civil Procedure be amended to read as follows:

Section 656. Every sub-contractor wishing to avail himself of the benefits of this chapter, shall, within sixty days after the material shall have been furnished or labor performed, file with the clerk of the District Court of the county or judicial subdivision in which the building, erection or other improvement to be charged with the lien is situated, a just and true account of the demand due him after allowing all credits, and containing a correct description of the property to be charged with said lien, and verified by his affidavit. But a failure to file the same within the time aforesaid shall not defeat the lien except as against purchasers or incumbrancers in good faith and without notice whose rights accrued after the sixty days, and before any claim for the lien was filed, or against the owners, except the amount due to contractor at the time of filing the same.

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

Approved, March 9, 1883.

CHAPTER 85.

CONCERNING LIVE STOCK.

AN ACT Giving a Lien on Certain Mares, Cows, and the Offspring thereof for the Services of a Stallion or Bull.

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

§ 1. OWNER OF STALLION OR BULL MAY HAVE LIEN.] That all owners, or any person having in charge a stallion or bull shall have a lien for the service of the stallion or bull, upon the mare or cow served by any stallion or bull and upon the offspring of the mare or cow served by any stallion or bull ;

Provided, That in case the owner of such stallion or bull desire to retain a lien upon any mare or cow served in the manner above mentioned, the owner of such stallion or bull shall within ten days after such service, file with the register of deeds of the county where such mare or cow are situated, a notice in writing, containing a particular description of the said mare or cow, when served, and the amount of lien claimed upon the same, which notice when filed as aforesaid shall operate as notice to subsequent purchasers and incumbrancers in good faith for the term of one year from filing of such notice.

§ 2. JUDGMENT—PROCEEDINGS.] That on all judgments rendered in any court in this Territory for the services of any stallion or bull, upon any mare or cow, an execution issued upon such judgment may be levied upon the mare or cow served by any stallion or bull, and upon the offspring of the mare or cow, served by any stallion or bull, and said mare or cow and the offspring thereof shall be sold in the manner provided by law for the sale of personal property levied upon by virtue of an execution. The proceeds of the sale must be applied to the payment of the judgment and all costs of the sale of the property levied upon ; the remainder, if any, must be paid over to the owner of the mare or cow or of the offspring thereof.

§ 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. That this act shall be in force and effect from and after its passage and approval.

Approved, March 7, 1883.

Library.

CHAPTER 86.

PROVIDING FOR INSURANCE AND THE PURCHASE OF BOOKS.

AN ACT to Provide for the Insurance of the Territorial Library and for the Purchase of Certain Books, and to Appropriate Funds therefor.

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

§ 1. SECRETARY TO INSURE.] That the Secretary of the Territory of Dakota may, and it is hereby made his duty, to insure for two years, the territorial library, for a sum not exceeding five thousand dollars, at the lowest rate obtainable for reliable insurance.

§ 2. MAY PURCHASE BOOKS.] That the Secretary of the Territory of Dakota is hereby authorized to purchase for the territorial library from time to time digests and such reports of the circuit and district courts of the United States as he may deem advisable.

§ 3. APPROPRIATION.] That there is hereby appropriated out of the territorial treasury the sum of one hundred and seventy-five dollars, or so much thereof as may be necessary, to pay the premium on the insurance herein provided for, and a further sum of fifty dollars per year for two years for the purchase of such books as are herein provided for.

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

Approved, March 9, 1883.

Obscene Language.

CHAPTER 87.

USING OBSCENE LANGUAGE PROHIBITED.

AN ACT to Punish the Use of Obscene Language.

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

§ 1. PENALTY.] That if any person shall utter or speak any obscene or lascivious language or words in any public place, or in the presence of females, or in the presence of children under ten years of age, he shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace of this Territory, he shall be liable to a fine of not more than one hundred dollars, or imprisonment for not more than thirty days, or both, at the discretion of said justice.

§ 2. This act shall take effect from and after its passage and approval.

Approved, February 13, 1883.

Pardons.

CHAPTER 88.

PRESCRIBING METHOD OF MAKING APPLICATION FOR PARDONS.

AN ACT to Regulate Applications for Pardons.

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

§ 1. APPLICATIONS FOR PARDONS.] All applications for pardons on behalf of any person or persons convicted in any court in this Territory, of any crime punishable under the laws thereof by

imprisonment in the territorial prison, and sentenced to such imprisonment, shall be made and conducted in the manner hereinafter prescribed.

§ 2. METHOD OF MAKING APPLICATION.] Notice of the application for such pardon shall be given to the judge who presided at the trial or his successor in office, and to the district attorney or his successor in office of the district who prosecuted the indictment against such person or persons so convicted and sentenced, at least thirty days before such application shall be filed with the Governor; the service of such notice upon the judge and district attorney aforesaid, shall be made and the return thereof certified in the same manner as now provided for the service of summons in the District Court, and such certificate of service shall accompany every such application to the Governor; a notice of such application setting forth the name of the person or persons on whose behalf it is made, the crime of which he shall have been convicted, the time of such conviction and the term of imprisonment shall also be published at least once each week for four successive weeks in some newspaper of general circulation in the county where the offense for which pardon is sought was committed, or if there be no newspaper published therein then such notice shall be posted in a conspicuous place on the door of the court house of such county for four successive weeks prior to the application; the affidavit of the publisher of such paper, or the person posting such notice, shall also accompany such application showing that such notice has been published or posted as herein provided.

§ 3. CONTEST OF APPLICATION.] Any person or persons feeling aggrieved by the application for any pardon may contest the same, and for that purpose may appear in person before the Governor during the consideration of said application, and show cause by written or oral testimony why such pardon should not be granted.

§ 4. GOVERNOR MAY MAKE RULES.] The Governor may in his discretion make such additional rules and regulations governing applications for pardons as may from time to time seem to him best, not in conflict with the provisions of this act; but the provisions of this act shall not apply to the applications for pardon to be granted within thirty days before the time when the convict would otherwise be legally entitled to discharge.

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

ENDORSED.—Received at Executive Office, February 7, 1883, at 12:40, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Prisoners.

CHAPTER 89.

AN ACT to Provide for the Punishment of Convicts for Attempting to Escape from Territorial Prisons.

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

§ 1. PUNISHMENT FOR ESCAPING FROM PRISON.] Any person committed to a territorial prison who shall escape from or break said territorial prison with intent to escape therefrom, or who shall attempt by force or violence, or in any other manner, to escape from said prison, whether such escape be effected or not, shall, upon conviction thereof, be punished by imprisonment in said prison for a term not exceeding double the term for which he or she was so sentenced, to commence from and after the expiration of his or her former sentence.

Approved, March 9, 1883.

Public Officers.

CHAPTER 90.

AN ACT to Regulate the Keeping of County, Township and Precinct Offices.

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

§ 1. WHERE PUBLIC OFFICES ARE TO BE KEPT.] That it shall be unlawful for any county, township or precinct officer in this Territory to keep his office or keep any books, papers, records or other property belonging to said county, township or precinct in said county, other than that in which he is required by the laws now in force to keep said office.

§ 2. PENALTY.] And any county, township or precinct officer violating any of the provisions of this act is guilty of a misdemeanor.

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

Approved, March 7, 1883.

Railroads.

CHAPTER 91.

LEASING RAILROAD LINES.

AN ACT to Amend Section Thirteen (13) of Chapter Forty-six (46) of the General Laws of the Territory of Dakota for the year 1879.

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

§ 1. COMPANY MAY LEASE AND OPERATE LINES.] Section thirteen of chapter forty-six of the General Laws of the Territory of Dakota, for the year 1879, is hereby amended so that the last paragraph of said section shall read as follows, viz :

Any railroad corporation whose line is wholly or in part within this Territory whether chartered by or organized under the laws of this Territory, or of any other State or Territory, or of the United States, may lease or purchase and operate the whole or any part of the railroad of any other railroad corporation, together with the franchises, powers, immunities and all other property or appurtenances appertaining thereto when such railroads can be lawfully connected and operated together, so as to constitute a continuous main or branch line. And all such purchases or leases heretofore made or entered into, are for all intents and purposes hereby ratified and confirmed ;

Provided, That in no case shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies so consolidated at the par value thereof, nor shall any bonds or other evidences of debt be issued as a consideration for or in connection with such consolidation.

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

Approved, March 9, 1883.

CHAPTER 92.

POWERS OF RAILROAD CORPORATIONS.

AN ACT to Amend Chapter Forty-six of the Laws Passed in the year 1879.

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

§ 1. CONCERNING GENERAL POWERS.] Section nine of the act mentioned in the title hereof is hereby amended by inserting the words, "And every railroad corporation authorized to construct, operate or maintain a railroad within this Territory," after the words "Every corporation formed under this chapter" where the same occurs in the said section.

§ 2. CONCERNING POWER TO ENTER UPON LAND.] Section twenty-three of the said act is hereby amended by inserting the words "And any railroad corporation authorized to construct, operate or maintain a railroad within this Territory," after the words "Any railroad corporation incorporated under this act," where the same occurs in the said section.

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

Approved, February 14, 1883.

CHAPTER 93.

SALES OF CERTAIN RAILROAD PROPERTY.

AN ACT to Secure Manufacturers and Owners of Railroad Equipment and Rolling Stock in Making Conditional Sales and Certain Contracts for the Lease thereof.

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

§ 1. LIEN OF PARTY SELLING RAILWAY PROPERTY.] That in all cases where railroad equipment and rolling stock may have been or shall be sold to any person, firm, or corporation, to be paid for in whole or in part in installments, or shall be leased, rented,

hired or delivered, on condition that the same may be used by the person, firm or corporation purchasing, leasing, renting, hiring or receiving the same, and that the title to the same shall remain in the vendor, lessor, rentor, hirer or deliverer of the same until the agreed upon price of or rent for such property shall have been fully paid, such condition in regard to the title so remaining in the vendor, lessor, renter, hirer or deliverer until such payments are fully made, shall be valid for all intents and purposes as to subsequent purchasers in good faith and creditors ;

Provided, The term during which the installments or rent are to be paid shall not exceed ten years, and such contract shall be in writing and acknowledged.

§ 2. CONTRACT, WHERE RECORDED.] That such contract shall be recorded in the office of the Secretary of the Territory and in the county in which is located the principal office or place of business of such vendee or lessee, and on each locomotive or car that may have been or may be so sold or leased, the name of the vendor or lessor or assignee of the vendor or lessor shall be marked, followed by the word "owner" or "lessor," as the case may be.

§ 3. That all acts or parts of acts in conflict with this act are hereby repealed.

§ 4. That this act shall take effect and be in force on and after its passage and approval.

Approved, March 1, 1883.

Rapid Creek.

CHAPTER 94.

TO PRESERVE THE WATERS FROM IMPURITIES.

AN ACT to Prevent the Corruption of the Waters of Rapid Creek.

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

§ 1. CERTAIN ACT UNLAWFUL.] That it shall be unlawful for any person, persons, company or corporation to place or cause to be placed, manure, butchers' offal, rubbish, carcasses of dead ani-

mals or other deleterious substances into Rapid Creek or any of its tributaries or upon the banks thereof in such proximity that said substances may be washed into said water-course.

§ 2. PENALTY.] That any violation of the provisions of this act is a misdemeanor, and the person, persons, company or corporation so violating, are guilty thereof, and upon conviction shall be liable to a fine of not less than ten dollars nor more than one hundred dollars, and in addition thereto such offending person or persons shall be subjected to imprisonment in the county jail for the period of thirty days unless he or they cause such deleterious substance to be removed.

§ 3. ACT, HOW CONSTRUED.] This act shall not be so construed as to interfere with or prevent any necessary or legitimate mining operation.

§ 4. JUSTICES TO HAVE JURISDICTION.] Justices of the peace of the proper county shall have jurisdiction to try and determine all offenses arising under the provisions of this act, subject to appeal as in other criminal cause.

§ 5. This act shall take effect from and after its passage and approval.

Approved, March 9, 1883.

Registers of Deeds.

CHAPTER 95.

AN ACT Relating to Registers of Deeds in this Territory.

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

§ 1. SEAL FOR REGISTER OF DEEDS.] That in every county in which the register of deeds is not *ex-officio* county clerk, the register of deeds of such county shall provide himself with a seal and make an impression of the same upon every instrument to which he attaches his signature as such. Said seal shall bear the following inscription: "Register of deeds of county," as the case may be.

§ 2. This act shall take effect immediately.

Approved, March 9, 1883.

Religious Corporations.

CHAPTER 96.

ORGANIZATION OF RELIGIOUS SOCIETIES.

AN ACT to Amend Section 546, Article XIV of the Civil Code, Entitled of
"Religious Corporations."

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

§ 1. TRUSTEES, HOW CHOSEN.] That section 546; article XIV of the Civil Code, entitled "Religious Corporations," is hereby amended so as to read as follows :

I. Section 546: The board of trustees, or other officers of any religious corporation may be chosen at such times and in such manner as may be in conformity to the rules, usage or general discipline of such church.

II. MEMBERS MAY ASSOCIATE.] The members of any church or religious society, not less than three (3), who by its rules, usage and general discipline, or otherwise, do not desire to organize and become incorporated under the foregoing provisions of the Civil Code, may organize and become corporate, capable of suing and being sued, holding, purchasing and receiving title to real estate and other property by devise, gift, grant or other conveyance, with power to mortgage, sell or convey the same, or any part, parcel or portion thereof, by adopting and signing articles containing :

First—The name of the church, society, association or corporation, its general purpose and plan of operation and its place of location.

Second—The terms of admission and qualifications of membership, and the selection of officers, and the filling of vacancies, and the manner in which the same is to be governed and managed. Such articles shall be recorded in the office of the Secretary of the Territory, and also in the office of the register of deeds of the county in which such church, society, association or corporation is located ; and thereupon such church, society, association or corporation shall have all the powers hereinbefore provided, and may adopt and establish by-laws and make all rules and regulations deemed necessary and expedient for the management of its affairs in accordance with law.

§ 2. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 7, 1883.

Reports of Territorial Officers.

CHAPTER 97.

CERTAIN REPORTS TO BE PRINTED.

JOINT RESOLUTION Authorizing the Printing of the Biennial Reports of the Territorial Auditor and Treasurer, and Making an Appropriation to Pay for the Same.

Be it resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of Dakota:

That the chief clerk of the house of representatives is hereby authorized, and it is made his duty, to forthwith furnish to the public printers, copies of the biennial reports of the Territorial Treasurer and Auditor, and direct the printing of four hundred copies of said reports, to be bound in one pamphlet, and that the public printer be required to deliver to the messengers of the council and house of representatives a sufficient number of said reports to furnish each member of the council and house of representatives ten copies and that the remaining copies be delivered in equal numbers to the Territorial Auditor and Treasurer. And that for the purpose of paying the expense of said printing, there is hereby appropriated out of the territorial treasury from any funds not otherwise appropriated, the sum of three hundred and ten dollars, or so much thereof as may be necessary; and the Auditor of the Territory is hereby directed to audit and allow the amount, or so much as may be necessary, upon a duly certified voucher being filed with him by said public printers.

Approved, February 13, 1883.

Revenue.

CHAPTER 98.

AN ACT to Amend Section Twenty-six of Chapter Twenty-eight of the Political Code of the Revised Codes of 1877.

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

§ 1. TOWNSHIP ASSESSORS TO DELIVER ASSESSMENT ROLL.] That section twenty-six of chapter twenty-eight of the Revised Codes of 1877, be, and the same is, hereby amended by inserting between the words "county" and "assessors," where they occur in the first part of said section, the words "and township."

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

Approved, March 9, 1883.

CHAPTER 99.

COLLECTION OF TAXES ON RAILROAD PROPERTY.

AN ACT to Provide for the Levy and Collection of Taxes Upon the Property of Railroad Companies in this Territory.

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

§ 1. PER CENTAGE OF GROSS EARNINGS TO BE PAID IN LIEU OF OTHER TAXES.] In lieu of any and all other taxes upon any railroads except railroads operated by horse-power, within this Territory, or upon the equipment, appurtenances, or appendages thereof or upon any other property situated in this Territory, belonging to the corporation owning or operating such railroads, or upon the capital stock or business transaction of such railroad company, there shall hereafter be paid into the treasury of this Territory, a percentage of all the gross earnings of the corporation

owning or operating such railroad, arising from the operation of such railroad as shall be situated within this Territory, as hereinafter stated, that is to say:

Every such railroad corporation or person operating a railroad in this Territory shall pay to said Treasurer each year for the first five years after said railroad shall be or shall have been operated in whole or in part, two (2) per centum of such gross earnings; and for and in each and every year after the expiration of the said five years, three (3) per centum of the said gross earnings; and the payment of such per centum annually as aforesaid, shall be and is in full of all taxation and assessments, whatever, upon the property aforesaid. The said payments shall be made one-half ($\frac{1}{2}$) on or before the fifteenth day of February, and one-half ($\frac{1}{2}$) on or before the fifteenth day of August, in each year, and for the purpose of ascertaining the gross earnings aforesaid, an accurate account of such earnings shall be kept by said company; an abstract whereof shall be furnished by said company to the Treasurer of this Territory, on or before the first (1st) day of February in each year; the truth of which abstract shall be verified by the affidavits of the treasurer and secretary of said company, and for the purpose of ascertaining the truth of such affidavits and the correctness of such abstracts, full power is hereby vested in the Governor of this Territory, or any other person appointed by law, to examine under oath, the officers and employes of said company, or other persons, and if any person so examined by the Governor or other authorized person, shall knowingly or willfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury. And for the purpose of securing to the Territory the payment of the aforesaid per centums, it is hereby declared that the Territory shall have a lien upon the railroad of said company and upon all property, estate and effects of said company whatsoever, personal, real or mixed. And the lien hereby secured to the Territory shall have and take precedence of all demands, decrees and judgments against said company.

§ 2. WHERE COMPANY SHALL FAIL TO MAKE RETURN.] If any railroad company in this Territory shall fail to make return of its gross earnings, as aforesaid, or of any part thereof, at the time and manner provided by law, and such default shall continue during the period of thirty (30) days, such company shall be subject to a penalty in an amount equal to twenty-five (25) per cent. of the tax imposed upon such company by this act. And the Treasurer of the Territory shall forthwith ascertain the amount of such tax justly due from such company as nearly as may be from such evidence as may be available, and shall thereupon collect such tax, as so ascertained, together with the said penalty thereon. The

amount of tax ascertained by the Territorial Treasurer as in this section provided, shall, together with the said penalty thereon, be by him entered in the books of his office; and such entry when so made shall stand in the place of the report required by law to be made by such company; and shall in all courts within this Territory, be evidence of the amount of such tax and penalty, and of the other facts stated therein in pursuance of this act.

§ 3. NEGLECT TO PAY TAXES.] In case any railroad company shall fail or neglect to pay the taxes reported by it to be due, in pursuance of this act, for the period of thirty (30) days after the same shall have become due by the terms thereof, in such case there shall be added to the amount of such tax ten (10) per centum thereof, as a penalty for such failure or neglect to pay.

§ 4. TERRITORIAL TREASURER TO DISTRAIN.] At any time after the expiration of the period of thirty (30) days after any tax has become due and payable under the provisions of this act, the Territorial Treasurer or his deputy shall distrain sufficient goods, chattels or other moveable property if found within this Territory to pay the taxes or per centum due from such corporation, together with the penalty thereon herein provided; and shall immediately advertise the sale of the same in at least three newspapers published within this Territory, stating the time when and the place where such property shall be sold. Such sales shall take place at some point on the railroad of such delinquent company, and at least four (4) weeks notice of the time and place of such sale shall be given. Such delinquent company, its successors or assigns, may pay any such taxes and penalty, at any time before the sale of property distrained as herein provided; and thereupon further proceedings in connection with such distress shall cease, and the property distrained be surrendered to the owner thereof.

§ 5. LANDS SUBJECT TO TAXATION.] The lands of any railroad company shall become subject to taxation in the same manner as other similar property, as soon as the same are sold, leased or contracted to be sold or leased; and on or before the first day of April of each year, each railroad company having lands within this Territory, shall return to the county clerk of each county, full and complete lists verified by the affidavits of some officer of the company having knowledge of the facts, of all lands of such company situated in such county, sold or contracted to be sold or leased during the year ending the last day of December preceding, and the list furnished on or before the first day of April, A. D. 1883, in compliance with the terms of this section, shall include a complete list of all lands sold or leased or contracted to be sold or leased prior to the last day of December, A. D. 1882.

§ 6. HOW TAX APPORTIONED.] The moneys received and col-

lected by the Territorial Treasurer in pursuance of *the* [this] act, shall be disposed of by him as follows :

One-third ($\frac{1}{3}$) thereof shall be retained in the Territorial Treasury for the use of the Territory and the remainder shall be apportioned among the several counties into or through which railroads *respectfully* [respectively] run in proportion to the number of miles of main track situated in such counties respectively.

§ 7. That all acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, March 9, 1883.

Roads.

CHAPTER 100.

TO VACUATE TERRITORIAL ROAD IN YANKTON COUNTY.

AN ACT to Vacate the Territorial Road in Section Thirty-six in Township Ninety-four of Range Fifty six in Yankton County, and for other purposes.

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

§ 1. CERTAIN PORTION OF ROAD VACATED.] That the Territorial road heretofore located and running through section thirty-six in township ninety-four of range fifty-six in Yankton county, that being the section set apart for the Dakota Hospital for the Insane, be and the same is hereby vacated so far as it crosses said section.

§ 2. EXTENSION OF ROAD.] That said Territorial road is hereby extended from the point where said road crosses the south line of said section, westerly, on the same width as is provided by law, along the south line of said section to the southwest corner of the same; thence northerly along the west line of said section to a point where it joins said Territorial road as heretofore located through said section.

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

Approved, March 8, 1883.

CHAPTER 101.

LAKE COUNTY.

AN ACT to Relocate Certain Parts of the Territorial Road through Lake County, D. T., and for Other Purposes.

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

§ 1. CERTAIN PORTION VACATED.] That all of that portion of the territorial road lying and being between the northwest corner of the northeast quarter of section No. 27 of township No. 106 north, of range 52 west, of the 5th principal meridian in Lake county, D. T., and the northwest corner of section No. 10 of township No. 106 north, of range No. 53 west, of the 5th principal meridian in said Lake county, D. T., be, and the same is hereby vacated.

§ 2. CERTAIN ROAD LAID OUT.] There is hereby lain out and established as a portion of said territorial road, and in lieu of that portion of said road vacated by virtue of section 1 of this act, a certain portion of land of the legal width of highways, described as follows, viz:

Commencing at the point of intersection of the county road with the section line road, and the north side of section No. 27, in township No. 106 north, of range No. 52 west, of the 5th principal meridian in Lake county, D. T., running thence northwesterly along, upon and over said county road, to a point of intersection of said county road, with Washington avenue, in the town of Madison in said Lake county; thence running northerly along, over and upon said Washington avenue to the northeast corner of block No. 2 in said town of Madison; thence running westerly along the north line of blocks Nos. 2, 3, 4, 5 and 6 in said town of Madison, and a continuation of said line, and upon and over the land adjacent thereto on the north, to the west line of the northeast quarter of section No. 7 of township No. 106 north, of range No. 52 west, in said Lake county; thence running northerly to the northwest corner of said northeast quarter of section No. 7, and half of the width of said road being upon either side of said west line of said northeast quarter of said section No. 7; thence running westerly along the section line to the northwest corner of section No. 10 in township No. 106 north, of range No. 53 west, in said Lake county, and half of the width of said road being upon either side of said line.

§ 3. CERTAIN ROAD VACATED.] The section line road lying

and being between the southeast quarter of section No. 6 of township No. 106 north, of range No. 52 west, in said Lake county, and the northeast quarter of section No. 7 of said *said* township No. 106 north, of range No. 52 west, is hereby vacated ; also so much of the section line road on the east side of the said northeast quarter of section No. 7 of said township No. 106 north, of range No. 52 west, as is included in and covered by and extends upon blocks Nos. 2, 11, 14, 22 and 25 of said town of Madison, is hereby vacated

§ 4. DUTY OF REGISTER OF DEEDS.] It is hereby made the duty of the register of deeds of said Lake county, D. T., to procure and duly record in the records of his office, within 60 days after the passage and approval of this act, a certified copy thereof.

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

Approved, March 9, 1883.

SALARIES.

CHAPTER 102.

SALARY OF PROBATE JUDGE.

AN ACT to Amend Section 13 of Chapter 39 of the Political Code.

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

§ 1. IN CERTAIN COUNTIES PROBATE JUDGE TO RECEIVE SALARY.] That section thirteen of chapter thirty-nine of the Political Code, be, and the same is, hereby amended by adding to the end thereof the following :

“And in counties having a population of over five thousand people, the judge of the probate court of each of said counties shall receive an annual salary of three hundred dollars per annum in addition to the foregoing fees, to be paid quarterly by the county.

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

Approved, March 9, 1883.

CHAPTER 103.

TERRITORIAL TREASURER.

AN ACT to Amend Section 3 of Chapter 39 of the Political Code, and Section 1 of Chapter 133 of the Session Laws of Dakota Territory of 1881.

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

§ 1. SALARY AND BOND OF TERRITORIAL TREASURER.] That section three (3) of chapter thirty-nine (39) of the Political Code, and section (1) of chapter one hundred and thirty-three (133) of the session laws of 1881, be, and the same is, hereby amended to read as follows:

§ 3: "The salary of the Territorial Treasurer shall be two thousand dollars per annum, payable quarterly; that he give a bond of one hundred thousand dollars with good and sufficient sureties, to be approved by the Governor."

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

Approved, March 8, 1883.

Seat of Government.

CHAPTER 104.

AN ACT to Provide for the Location of the Seat of Government of the Territory of Dakota, and for the Erection of Public Buildings thereat.

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

§ 1. REMOVED FROM YANKTON.] The seat of government of the Territory of Dakota, is hereby removed from the city of Yankton, in the county of Yankton, and Territory of Dakota, and is located and established as hereinafter provided.

§ 2. NAMES OF COMMISSIONERS.] That Milo W. Scott, Burleigh F. Spaulding, Alexander McKenzie, Charles H. Myers, George A. Mathews, Alexander Hughes, Henry H. DeLong, John P. Belding, M. D. Thompson, be, and they are hereby appointed com-

missioners for the purpose of locating the permanent seat of government and the capital building of the Territory of Dakota.

§ 3. BOND AND OATH—ORGANIZATION—BOND OF TREASURER.] Said commissioners shall before entering upon the discharge of their duties, enter into bonds in the sum of forty thousand dollars (\$40,000) each, with good and sufficient sureties, to be approved by one of the justices of the supreme court, payable to the Territory of Dakota, and conditioned for the faithful performance of their duties under this act, to fully account for all moneys that may come into their hands as such commissioners, and they shall also take and subscribe an oath to fully, faithfully and impartially carry out the provisions of this act, which said oath shall be endorsed on their bond, and the same shall be filed in the office of the Territorial Treasurer. If any of the commissioners fail to qualify as provided in this section, within thirty (30) days after the passage of this act, or should a vacancy occur at any time, the Governor shall fill the vacancy by appointment, and the person so appointed shall qualify in the manner provided in this act. After having qualified, and within thirty (30) days after the passage of this act, the commissioners shall meet in the city of Yankton and proceed to organize by electing a president, secretary and treasurer, each of which officers, except the secretary, shall be a member of the commission herein provided for. The treasurer of the board of commissioners shall give a good and sufficient bond, payable to the Territory of Dakota, and conditioned for the faithful performance of the duties of his office; said bond shall be in the sum of one hundred thousand dollars (\$100,000), to be approved as above provided.

§ 4. SHALL SELECT SITE FOR CAPITAL.] On or before the first day of July, A. D. 1883, the commissioners, or a majority of them, shall select a suitable site for the seat of government of the Territory of Dakota, due regard being had to its accessibility from all portions of the Territory, and its general fitness for a capital, when at least one hundred thousand dollars (\$100,000) shall be paid or guaranteed in money; if the amount be not paid in money, then its payment to the Territory shall be secured by a bond with good and sufficient sureties, payable to the Territory, which bond shall be approved by said commissioners or a majority thereof. And after the site is determined upon as aforesaid, said commissioners shall secure good and sufficient title deeds of at least one hundred and sixty acres of land upon which the capital buildings shall be erected, and a sufficient amount of said grounds shall be laid out into squares and suitable landscapes, and the same is hereby declared to be the permanent seat of government of the Territory of Dakota, at which all of the public officers of the Territory shall be kept, and at which all of the sessions of the Legislature shall hereafter be held.

§ 5. DISPOSITION OF RESIDUE OF LANDS.] The residue of the said one hundred and sixty acres, and any other lands secured by the said commissioners, shall be laid off and staked out into lots, blocks, streets and alleys and public squares, and shall be disposed of as hereinafter provided, for the sole benefit of the Territory of Dakota.

§ 6. PLATS OF TOWN—SALE OF LOTS.] After said lands shall have been properly surveyed, staked off and laid out, three accurate plats of the same shall be made, showing the blocks, lots, streets, alleys, parks, squares and reservations for public buildings, one of which shall be recorded in the office of register of deeds of the county in which such site is situated, and by him entered in the proper deed book; one of said plats shall be filed in the office of the Secretary of the Territory, and the third plat shall be retained by the commission. Said commissioners shall fix a minimum price upon each lot not reserved for public uses, which said price shall be marked upon each lot in said plat. The said commissioners shall then advertise in six daily newspapers published within the Territory of Dakota, that they will upon a day to be therein named, not less than thirty (30) days after the date of the first publication of the notice, offer or cause to be offered for sale to the highest and best bidder at public sale, each lot not reserved as aforesaid. Said sale shall be held first at or near said capital grounds, and shall be opened from day to day at ten (10) o'clock. A. M., and be kept open for at least five consecutive days, Sundays excepted, and thereafter any remainder of said lots may be sold by said commissioners at public or private sale, and at such times and places as said commissioners may decide, and at said sales no lots shall be sold for any sum less than the minimum price marked upon the plat above provided for, nor upon any other terms than for cash in hand.

§ 7. DEEDS, HOW PROCURED.] Every purchaser of lots shall deposit the purchase money therefor with the commissioners, who shall give a receipt for said money, which receipt shall specify the amount of money and the number of the lot and block for which the money was paid, and which receipt, upon its presentation to the Secretary of the Territory, shall entitle the person named therein, to a deed in fee simple, absolute, from the Territory of Dakota, to the real estate named in the receipt, which conveyance shall be executed for and in behalf of the Territory, by the Governor, and attested by the Secretary of the Territory, under the seal of said Territory, and said Secretary shall file and safely keep all receipts thus presented.

§ 8. MONEYS TO BE DEPOSITED WITH TERRITORIAL TREASURER.] All moneys received by the commissioners for the sale of lots shall

be forthwith deposited by them in the territorial treasury, and said money shall be held by the Treasurer as a territorial building fund, and shall be kept by him separate from other funds and be separately accounted for.

§ 9. COMPENSATION OF COMMISSIONERS AND SURVEYORS.] All expenses incurred by the commissioners for a surveyor, at not exceeding five dollars (\$5.00) per day and necessary assistants, not exceeding two and one half dollars (\$2.50) per day each, with necessary bills for team hire, advertising, stationery and other necessary expenses, shall be paid by the Auditor of the Territory by his warrant upon the territorial building fund upon the certificate of the said commissioners; and the commissioners shall be paid for their services, the sum of six dollars (\$6.00) each, for each and every day actually employed, by the warrant of the Auditor of the Territory upon the territorial building fund:

Provided, That in the aggregate they shall not receive as compensation more than ten thousand dollars.

§ 10. ADVERTISING FOR PLANS AND SPECIFICATIONS.] As soon as said commissioners have secured a suitable site, and a building fund of at least one hundred thousand dollars (\$100,000), they shall issue a notice to architects, asking for plans and specifications for a building, the foundations of which shall be of stone, and the superstructure of which shall be of stone, brick, or iron, which shall be suited for the executive offices and the assembly of the two houses of the Legislature, which said building may be designed as a portion of a larger edifice.

§ 11. COMMISSIONERS TO ADOPT PLAN AND ADVERTISE FOR ERECTION OF BUILDING.] The commissioners shall, from the plans presented, adopt the one best adapted to the wants of the Territory, and shall appoint a competent person to superintend its construction, who shall be paid not exceeding five per cent. on the contract price for his services. The commissioners shall then advertise in at least four daily newspapers published in the Territory, for one month, for sealed proposals for the erection of said buildings, according to the plans and specifications to be furnished by them.

§ 12. LETTING OF CONTRACT AND BOND OF CONTRACTOR—PAYMENTS—REMOVAL OF CAPITAL.] The contract shall be let to the lowest and best bidder, and the contractor shall enter into sufficient bonds of not less than double the contract price, with sureties, to be approved by the commissioners, conditioned for the faithful performance of the contract. The commissioners shall reserve the right to reject any and all bids, if in their judgment they are too high, and may again proceed to advertise for proposals in the manner provided in this act. The commissioners shall from time to time, upon the requisition of the

superintendent, draw through the Auditor of the Territory, upon the territorial treasury for the amount necessary to carry on the construction of the capital, which said warrants shall be paid out of the territorial building fund :

Provided, That said contractor shall not be paid at any time any sum or amount in excess of eighty (80) per cent. of the actual value of the work done, or material furnished at the time of such payment. The balance due the contractor shall be paid when the building is completed and accepted by the commissioners, and said building shall be completed as soon as practicable. As soon as the capitol building provided for in this act is erected and completed, it shall be the duty of said commissioners to report such facts to the Governor, who shall thereupon issue his proclamation setting forth the action of the commissioners and declaring said building ready for occupancy ; and it shall then be the duty of all the territorial officers, whose offices are properly kept at the capital, to remove within thirty (30) days thereafter their several offices, together with the public property, archives, records, books and papers to the building and place so declared ready for occupancy, and all sessions of the Legislature shall thereafter be convened in the said building at the said place.

§ 13. TITLE TO THE TERRITORY.] The title to all lands secured by the commissioners for the location and erection of capitol buildings shall be conveyed to the Territory of Dakota.

§ 14. COMMISSIONERS TO MAKE REPORT--SHALL NOT PURCHASE CERTAIN LANDS OR HAVE INTEREST IN CONTRACT.] The said commissioners shall make a full and complete report to the next Legislature of all their doings, specifying to whom, for what service or material, and the amount paid to each person. The number of lots sold, to whom, for what amount, to whom and for what amount the contract or contracts were let, together with a copy of all such contracts, and the said commissioners and their sureties shall be held responsible on their bonds for all their acts until the Legislature shall order the said bonds to be delivered up to the said commissioners. No member of said board of commissioners shall purchase or in any other manner acquire any real estate or interest therein, directly or indirectly, within ten (10) miles of the site selected for a capital within one year from the passage of this act, nor shall he be interested directly or indirectly in any contract made under the provisions of this act.

§ 15. PENALTY FOR VIOLATION OF SECTION 14.] Any violation of section fourteen (14) of this act by any of the commissioners shall work a forfeiture of his official bond, and he shall be deemed to have committed a felony and upon conviction thereof shall be punished by imprisonment in the territorial penitentiary not exceeding three years.

§ 16. TEMPORARY CAPITAL.] Until the territorial capitol buildings shall be ready for occupancy as provided by this act, the territorial officers shall temporarily keep their offices, archives, books, records and papers at the city of Yankton, unless the Governor shall designate some other place by written order, in which case the said officers shall remove their respective offices, together with the archives, books, records and papers pertaining thereto to the place so designated within the time prescribed in such order.

§ 17. ACTS REPEALED.] Chapter one of the Political Code, and all acts or parts of acts in any manner in conflict with this act or repugnant thereto are hereby repealed.

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

Approved, March 8, 1883.

Security.

CHAPTER 105.

AN ACT to Amend Section (197) of Article (4) of the Code of Civil Procedure.

Be it Enacted by the Legislative Assembly of Dakota Territory :

§ 1. SECURITY WHERE DEBTOR IS ABOUT TO REMOVE.] That section (197) of Article (4) of the Code of Civil Procedure be amended by adding to the end of said section the following words:

Provided further, That whenever any debtor residing in this Territory is about to remove from the county where he resides with the intention of permanently changing his or her place of residence, it shall be lawful for his or her creditors to demand of such debtor security for such debt and in case of failure or neglect to secure the same. Such creditor shall have the right of attachment against the property of such delinquent debtor under the provisions of law regulating attachment proceeding.

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

ENDORSED.—Received at Executive Office, March 2d, 1883, at 4, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Service of Summons.

CHAPTER 106.

NON-RESIDENT ADMINISTRATOR TO APPOINT AGENT.

AN ACT to Provide for the Appointment of an Agent to Receive Service for a Non-resident Executor, Administrator or Guardian, and for other purposes.

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

§ 1. NON-RESIDENT TO APPOINT AGENT UPON WHOM SUMMONS MAY BE SERVED.] Every executor, administrator or guardian appointed in, but residing out of the Territory, shall, before entering upon the duties of his trust, in writing, appoint an agent residing in the county where he is appointed, and shall by such writing stipulate and agree that the service of any legal process against him as such executor, administrator or guardian if made on said agent shall be of the same legal effect as if made on himself personally within the Territory. Such writing shall give the proper address of such agent and shall be filed in the office of the judge of the probate court where such appointment is made.

§ 2. NOTICE BY PUBLICATION—WHEN.] If any executor, administrator or guardian has absconded or conceals himself or has removed or absented himself from the Territory, notice may be given him of the pendency of any proceedings in which he is interested in any court by publication, in such manner as the court may direct, and the court may proceed upon such notice as if the citation had been personally served.

§ 3. This act shall take effect immediately.

Approved, March 9, 1883.

Taxes.

CHAPTER 107.

FOR IMPROVEMENT OF STREETS AND SIDEWALKS.

AN ACT to Amend Section 45 of Chapter 24 of the Political Code.

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

§ 1. AMENDED.] That section 45 of chapter 24 of the Political Code be, and the same is, hereby amended to read as follows :

§ 2. TAXES FOR REPAIRING STREETS AND SIDEWALKS.] Whenever two-thirds of the residents, 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 street graded, paved or otherwise improved, or the sidewalk 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 owners of real estate, lot or lots on such street or part of street, such a sum of money as is necessary for the improvement of said street or sidewalk, or the building of said sidewalk in front of each of the respective lots or at the side of any corner lot or lots, or real estate ;

Provided, however, That no real estate, lot or lots shall be taxed as aforesaid for sidewalks built or improvements done, at a greater distance from the front of said real estate, lot or lots, than one-half the distance to the opposite side of said street.

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

Approved, February 13, 1883.

Tax Commission.

CHAPTER 108.

COMMISSIONERS TO BE APPOINTED TO EQUALIZE VALUES OF TAXABLE PROPERTY.

JOINT RESOLUTION Providing for the Appointment of a Tax Commission.

Be it resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of Dakota:

That three commissioners be appointed by the Governor and confirmed by the Legislative Council, whose duty it shall be, to carefully examine into all sources of revenue and ascertain and report whether or not all classes of property are equally assessed and taxed under the present law.

To ascertain and report whether the various corporations in the Territory whose capital stock is owned outside of the Territory, are paying their just shares of the public burdens.

To ascertain and report what new sources of revenues may justly be secured for territorial, county, municipal or educational purposes.

Resolved, That said commission be authorized to report to the Governor, to be by him transmitted to the Secretary of the Interior, or any department of the U. S. Government, any evasion of the U. S. Laws whereby the revenues due to the Territory are unjustly decreased; also that said Commission report to the present or next Legislative Session, bills with detailed statements printed in pamphlet form for equalizing taxation throughout the Territory.

Resolved, That said Tax Commission be authorized to employ a secretary, who can write short-hand; also to summon and compel the attendance of witnesses, with such books and papers as may be required for a thorough investigation of the present or proposed modes of taxation.

Resolved, That each Commissioner be allowed and paid out of any money in the treasury not otherwise appropriated six dollars for each day actually employed in conducting the aforesaid investigation, and making reports, together with the actual expenses incurred while traveling or away from his usual place of abode, to be made up monthly and certified under oath to the Territorial

Auditor. The pay of the secretary and other expenses of the Commission to be certified by the Commission and paid out of the treasury in like manner.

Approved, March 9, 1883.

Telegrams.

CHAPTER 109.

AN ACT to Amend Section Seven Hundred and Eighteen (718) of the Penal Code.

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

§ 1. PENALTY FOR BETRAYING CONTENTS OF TELEGRAM.] That section seven hundred and eighteen of the Penal Code be, and the same is, hereby amended to read as follows:

Section seven hundred and eighteen. Every person who discloses the contents of any telegraphic dispatch or any part thereof addressed to another person, without the permission of such person, except upon the lawful order of a Court or the Judge thereof, to his loss, injury, or disgrace, is guilty of a misdemeanor.

§ 2. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

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

Approved, February 21, 1883.

Telephones.

CHAPTER 110.

AN ACT to Amend Chapter 132 of the General Laws Passed at the Fourteenth Session of the Legislative Assembly of this Territory.

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

§ 1. TELEPHONE COMPANIES GRANTED CERTAIN RIGHTS.] That section 3 of chapter 132 of Session Laws of 1881, be, and the same is, hereby amended by adding after the words "telegraph line" in the second line thereof the words "or telephone line or exchange," and by adding after the word "public" in the third line thereof the words "grounds, streets, alleys."

§ 2. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. That this act shall take effect and be in force from and after its passage and approval.

Approved, March 9, 1883.

Texas and Cherokee Cattle.

CHAPTER 111.

IMPORTATION OF CERTAIN CATTLE FORBIDDEN AT CERTAIN TIMES.

AN ACT to Prohibit the Importation of Texas and Cherokee Cattle into the Territory of Dakota and for other purposes

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

§ WHEN UNLAWFUL.] That it shall be unlawful for any person or persons, railroad company or other corporation or any association of persons to bring into this Territory any Texas or Cherokee cattle except between the first day of November of each year and first day of February following ;

Provided, That the right to bring into this Territory any such cattle shall in no case be any defense for any injury sustained by any one by reason of the bringing of such cattle into this Territory.

§ 2. UNLAWFUL TO HAVE IN POSSESSION.] That it shall be unlawful for any person or persons, railroad company or other corporation or association of persons whatever within this Territory, to own or have in possession or control any Texas or Cherokee cattle at any time which may have been brought into this Territory at any time except between the first day of November of each year and the first day of February following:

§ 3. PENALTY FOR VIOLATION.] That any person or persons who shall bring into this Territory or cause to be brought therein, any Texas or Cherokee cattle except at the time permitted in section one, or who shall own, possess or control any such cattle except as allowed in section two, shall be guilty of a misdemeanor and *in* shall be liable to indictment and conviction, fine and imprisonment, and shall be fined upon conviction in any sum not exceeding ten thousand dollars nor less than two hundred dollars, and in addition to such fine may be imprisoned in the discretion of the court. Any such person may in the first instance be brought before any justice of the peace and be held to bail to appear before the district court in the county or subdivision where such justice of the peace shall reside to answer to any charge as may be preferred against him; and any railroad conductor or servant, agent or officer of any railroad who shall bring any such cattle into this Territory upon any railroad or vessel connecting with such railroad, or carry any such cattle upon any railroad or vessel connecting therewith from one point to another within this Territory, shall be deemed to have possession of such cattle within the meaning of this section.

§ 4. DISPOSITION OF FINES.] That any and all fines which may be collected under section three shall be paid into the county treasury and be subject to the order of the board of county commissioners for the purpose of being divided *pro rata* among the persons who may have suffered loss or damage on account of any such cattle being brought into or being within this Territory, upon proof of loss or injury, in such manner as said board shall direct, but if no proof of such loss or injury shall be made to such board of county commissioners within one year after the collection of any such fine, then it shall be the duty of such board to order the said county treasurer to credit such fine or fines to the common school fund of the county to be used in payment of teachers of common schools.

§ 5. WHO LIABLE FOR DAMAGE.] That whenever in any case

any damage or loss shall or may be occasioned to any person or persons resulting in any manner from any such Texan or Cherokee cattle having been brought into this Territory at any time by any person or persons, railroad company or any other corporation or association of persons, then such person so bringing into, or owning, possessing or controlling such cattle in this Territory shall be liable jointly or severally to any person or persons who may suffer loss or damage by reason of such bringing or conveying into, possessing, owning or controlling within the Territory any such cattle; and that [in] any action for the recovery of damages or compensation for any loss or damage which may be sustained by any person or persons from any such cattle, it shall be sufficient for the plaintiff or plaintiffs to show that the injury of which he or they may complain arose from any such Texas or Cherokee cattle which may have been owned or had in possession or brought into the Territory at any time within the year by any such defendant or that such cattle so brought in, owned or possessed had been where such loss or damage had been sustained. And it shall not be necessary for the plaintiff to show that the injury of which he may complain accrued while any such Texas or Cherokee cattle were in the possession or ownership or control of any such defendant or defendants, it being the intention of this section to make all persons or corporations liable to injured persons in the first instance for any injury which may arise from disease spreading or communicating from such Texas or Cherokee cattle so brought into or owned, possessed or controlled by them in this Territory.

§ 6. NO DEFENSE.] That the right to bring into this Territory, Texas or Cherokee cattle between the first day of November of each year and the first day of February following, shall in no case be any defense for any loss or damage that may accrue from such cattle to any person; nor shall any right to own, possess or control any such cattle in any case be any defense for any injury or loss which may arise to any person by reason of such right to own, possess or control such cattle.

§ 7. PROOF TO ENTITLE PLAINTIFF TO RECOVER.] That in all actions or prosecutions for any loss or injury which may arise or accrue to any person or persons by reason of any injury or loss done or caused to be done to any native or domestic cattle, from or by any such Texas or Cherokee cattle, the proof of the loss of any native or domestic cattle, or any damage thereto and the amount of such loss or damage, any proof that any such defendant or defendants brought into this Territory or owned, possessed or controlled in this Territory at any time, any such Texas or Cherokee cattle, which may have caused such injury or loss shall, *prima facie* entitle the plaintiff or plaintiffs to recover. And it shall be competent for any jury to render a verdict and any court

or justice of the peace to render a judgment in any such case upon the opinion of witnesses as to whether or not any such Texas or Cherokee cattle caused the injury complained of in such action.

§ 8. PROCEEDINGS WHEN CATTLE ARE SPREADING DISEASE.] That in case any such Texas or Cherokee cattle shall be found spreading or communicating any disease among the native domestic cattle of this Territory, it shall be the duty of any judge of the District Court, or justice of the peace, upon oath of any householder setting forth that such Texas or Cherokee cattle are spreading or communicating disease among native or domestic cattle within this Territory, and the name of the owner or party in whose possession or control such Texas or Cherokee cattle may be, to forthwith issue a warrant to any sheriff or constable of the county or township, commanding him forthwith to arrest and imprison in some safe place such cattle so spreading or communicating disease, and to summon the owner thereof, or the person or persons found in the possession of such Texas or Cherokee cattle, to appear forthwith before such judge or justice of the peace, and show cause why such Texas or Cherokee cattle shall not be impounded until the first day of November following, and after allowing the prosecuting witness and any such defendant named in such warrant reasonable time to be heard, the said judge or justice of the peace shall proceed to hear and determine whether such Texas or Cherokee cattle have so spread or communicated disease; it shall be the duty of such judge or justice of the peace to order the officer in charge of such Texas or Cherokee cattle to impound them and *and* keep them to themselves until after the first day of November following, when it shall be the duty of the officer in charge of such cattle so impounded to present to the owner or person entitled to the possession of such cattle, a sworn statement of the costs of taking and keeping and impounding such cattle, including the cost of building the pound and providing materials for the same in case the board of county commissioners or township supervisors where such cattle were impounded had ordered the pound to be built for the purpose of impounding such cattle, and demand payment of the same together with the costs of such trial aforesaid; and upon payment of the same he shall deliver such cattle to the owner or person entitled to the possession thereof.

§ 9. DEFINITION OF TEXAS CATTLE.] That Texas or Cherokee cattle as mentioned in this act shall be taken to mean a class or kind of cattle without reference to where they may have come from:

Provided, That that portion of this Territory west of the Missouri river is exempted from the provisions of this act; but the right to bring into, own, possess or control such cattle in such exempted territory, shall give no right to send, convey or cause to

be sent or conveyed such cattle into that part of the territory subject to the provisions of this act, or own or possess the same therein, except that such cattle may be shipped or conveyed by themselves across said river to an enclosure upon the left bank thereof, upon the line of any railroad crossing this Territory, and may be conveyed from such enclosure across and without this Territory by continuous passage in cars upon said railroad.

§ 10. PURPOSE OF THIS ACT.] The object of this act is hereby declared to be for the purpose of preventing the spread of pestilence and disease among *native and domestic* native and domestic cattle of this Territory east and north of the Missouri river, which arises and is communicated from that class of cattle described in this act as Texas and Cherokee cattle, and to protect the native and domestic cattle of this Territory from destruction from the poison, disease or sickness which it is believed is communicated from such Texas or Cherokee cattle.

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

ENDORSED.—Received at Executive Office, March 6, 1883, at 4:40, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Township Government.

CHAPTER 112.

AN ACT to Provide for the Organization of Civil Townships and the Government of the Same.

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

CHAPTER I.—TOWNSHIP ORGANIZATION.

I.—TOWNSHIPS, HOW ORGANIZED AND NAMED.

§ 1. WHEN COUNTY BOARD TO FIX BOUNDARIES OF TOWN.]
Whenever a majority of the legal voters of any congressional town-

ship in this Territory containing twenty-five legal voters, petition the board of county commissioners to be organized as a town under this chapter, said board shall forthwith proceed to fix and determine the boundaries of such new town and to name the same; and said board shall make a full report of all their proceedings in relation to laying off said town, and file the same with the county auditor or county clerk.

§ 2. MAY ATTACH FRAGMENT OF CONGRESSIONAL TOWNSHIP TO ADJOINING TOWN.] A fraction of a township may be attached by said commissioners to an adjoining town, or be divided between two or more towns, or organized separately, according to the wishes of a majority of the legal voters to be affected thereby; and when rivers, or lakes, or creeks so divide a township as to make it inconvenient to do town business, the said commissioners may dispose of any fraction so formed by annexing the same to an adjoining township in the same county, if it shall seem to them proper, whenever petitioned to do so by not less than two thirds of the legal voters residing in such fraction, and the fact that any such petition is so signed by two thirds of such voters may be proved by the affidavit of any legal voter residing in such fraction having knowledge of the fact, and townships having two or more villages or cities, each containing two hundred or more inhabitants, may petition the county commissioners for a division; and whenever the county commissioners are so petitioned, they may, if they think the interest of such town will be subserved thereby, proceed to divide such townships in such manner as will best suit the convenience of the Territory:

Provided, however, That at least twenty days notice shall be given by the county commissioners to the chairman of the board of supervisors of each township affected by the change, before action is taken thereon:

Provided further, That nothing herein contained shall be construed to release any property in or belonging to that part of any township so detached, from any tax levied or assessed prior to such division being made:

Provided, That the part or portion of any town annexed to any other town, and any village or city separated from any town under the provisions of this act, shall not be released from, or in any way discharged from the payment of any bonded or other indebtedness that may exist against the town from which separation has been made.

§ 3. NAME OF TOWN.] Towns thus formed shall be named in accordance with the expressed wish of a majority of the legal voters resident therein, but if they fail to so designate the name the county commissioners may select a name.

§ 4. FIRST TOWN MEETING.] The county commissioners shall thereupon make out notices designating a suitable place for holding the first town meeting in each town, which shall be holden within twenty days after said town is organized; and the auditor or county clerk shall deliver such notice to the sheriff of the county, who shall cause the same to be posted in each township not less than ten days before the day set for such town meeting.

§ 5. COUNTY CLERK TO TRANSMIT NAME TO AUDITOR.] Each county auditor or county clerk shall, within thirty days after such town is organized, transmit by mail to the Auditor of the Territory an abstract of such report, giving the bonds of each town and the name designated; and said county auditor or county clerk shall record in a book for that purpose, a full description of each town.

§ 6. WHERE SIMILAR NAMES ARE ADOPTED.] If the Auditor of the Territory on comparing the abstract of the reports from the several counties finds that any two or more townships have the same name he shall transmit to the auditor or county clerk of the proper county the name of the town to be altered; and the board of commissioners shall at their next meeting thereafter adopt for such town some name different from those heretofore named, so that no two towns organized under this chapter shall have the same name, and when such name is adopted the auditor [or] clerk of the county shall inform the Territorial Auditor as before directed.

§ 7. PRESENT BOUNDARIES TO REMAIN.] The limits and boundary lines of every organized township shall remain as now established, until otherwise provided by the board of county commissioners under the authority of law.

II.—CORPORATE POWERS OF TOWNS.

§ 8. POWERS OF TOWN.] Each town is a body corporate and has capacity:

First—To sue and be sued.

Second—To purchase and hold lands within its own limits, and for the use of its inhabitants, subject to the powers of the Legislature.

Third—To make such contracts, purchase and hold such personal property as may be necessary for the exercise of its corporate or administrative powers.

Fourth—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.

§ 9. SAME.] No town shall possess or exercise any corporate powers except such as are enumerated in this chapter, or are speci-

ally given by law or necessary to the exercise of the power so enumerated or granted.

§ 10. ACTIONS TO BE IN CORPORATE NAME.] All acts or proceedings by or against a town in its corporate capacity, shall be in the name of such town; but every conveyance of land within the limits of such town, made in any manner for the use or benefit of its inhabitants, has the same effect as if made to the town by name.

III.—ANNUAL TOWN MEETINGS.

§ 11. CITIZENS SHALL HOLD TOWN MEETINGS.] The citizens of the several towns of this Territory qualified to vote at general elections, shall annually assemble and hold town meetings in their respective towns on the first Tuesday of March, at such place in each town as the electors thereof, at their annual town meetings from time to time appoint; and notice of the time and place of holding such meeting shall be given by the town clerk by posting up written or printed notices in three of the most public places in said town, at least ten days prior to said meeting:

Provided, That before any change of place of holding town meetings is made, notice of such contemplated change may be given by any member of the town board to the town clerk, who shall in his regularly printed or written notices, as provided hereinabove, incorporate the special notice of the contemplated change of place of holding said town meeting.

§ 12. WHAT OFFICERS TO BE CHOSEN.] There shall be elected at the annual town meeting in each town, three supervisors—one of whom shall be designated on the ballots as chairman—one town clerk, one treasurer, one assessor, two justices of the peace, two constables and one overseer of highways for each road district in said town; but justices of the peace and constables shall be elected only once in two years, except to fill vacancies.

§ 13. POWERS OF ELECTORS.] The electors of each town have power at their annual town meeting:

First—To determine the number of pound masters and the location of pounds.

Second—To select such town officers as are required to be chosen.

Third—To direct the institution or defense of actions in all controversies where such town is interested.

Fourth—To direct such sums to be raised in such town for prosecuting or defending such actions as they may deem necessary.

Fifth—To make all rules and regulations for impounding of animals.

Sixth—To impose such penalties on persons offending against

any rule or regulation established by said town, as they think proper, not exceeding ten dollars for each offense, unless herein otherwise provided

Seventh—To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the town.

Eighth—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 town charges, as they deem expedient;

Provided, That they may, at their annual town meeting, direct such an amount of the poll or road tax of the town to be expended on the highways in an adjoining town as they deem conducive to the interests of the town, which labor and tax shall be expended under the direction of the supervisors of the town furnishing the same.

Provided, further, That where more than one entire congressional township is included within an organized town, the poll and road tax raised within the limits of each of such congressional townships shall be expended within such congressional township, unless raised to be expended outside of such organized town, in an adjoining town.

IV.—BY-LAWS.

§ 14. BY-LAWS—WHEN TO TAKE EFFECT.] No by-law made by any town shall take effect before the same is published by posting up copies thereof in three of the most public places in the town; and such by-laws, duly made and so published, are binding upon all persons coming within the limits of the town, as well as upon the inhabitants thereof, and shall remain in force until altered or repealed at some subsequent town meeting.

§ 15. TOWN CLERK SHALL POST BY-LAWS.] The town clerk shall post in three of the most public places in his town, copies of all by-laws made by such town, and shall make an entry in the town records of the time when, and the place where, such by-laws were posted.

V.—SPECIAL TOWN MEETINGS.

§ 16. WHEN SPECIAL MEETINGS MAY BE HELD.] Special meetings may be held for the purpose of electing town officers to fill vacancies that occur, also for the purpose of transacting any lawful business, whenever the supervisors, town clerk and justices of the peace, or any two of them, together with at least twelve other freeholders of the town, file in the office of the town clerk a written statement that a special meeting is necessary to the interest of the town.

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

§ 18. WHAT NOTICE SHALL SPECIFY.] Every notice given for a special town meeting shall specify the purpose for which it is to be held, and no other business shall be transacted at such meeting than such as is specified in such notice. If vacancies in office are to be filled at such meeting, the notices shall specify in what office vacancies exist, how they occurred, who was the last incumbent, and when the legal term of each office expires.

VI.—MODE OF CONDUCTING TOWN MEETINGS.

§ 19. ORGANIZATION.] The electors present, at any time between nine and ten o'clock in the forenoon of the day of the annual town meeting, or special town meeting, shall be called to order by the town clerk, if there is one present; in case there is none present, then the voters may elect, by acclamation, one of their number chairman, and three of their number judges of town meeting who shall be duly sworn and be judges of the qualifications of township electors. They shall then proceed to choose one of their number to preside as moderator of such meeting. The town clerk last before elected, shall be clerk of the meeting, and keep full minutes of its proceedings, in which he shall enter at length every order or direction, and all rules and regulations made by the meeting. If the town clerk is absent, then such person as is elected for that purpose shall act as clerk of the meeting.

§ 20. DUTY OF MODERATOR; RECONSIDERATION, ETC.] At the opening of every town 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 or stated by the moderator, and no proposition to reconsider any vote shall be entertained at any town 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 such 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.

§ 21. OPENING OF POLLS.] Before the electors proceed to elect any town officer, proclamation shall be made of the opening of the polls, by the moderator, and proclamation shall, in like manner, be made of the adjournment, and of the opening and closing of the polls, until the election is ended.

§ 22. WHO ARE VOTERS] No person is a voter at any town meeting unless he is qualified to vote at general elections, and has been, for the last ten days, an actual resident of the town wherein he offers to vote.

§ 23. CHALLENGE.] If any person offering to vote at any election, or upon any question arising at such town meeting, is challenged as unqualified, the judges of the town meeting shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the town meeting.

§ 24. CERTAIN OFFICERS TO BE ELECTED BY BALLOT.] The supervisors, treasurer, town clerk, assessor, justices of the peace, constables and overseer of the poor, in each township, shall be elected by ballot. All other officers, if not otherwise provided by law, shall be chosen either by yeas and nays, or by a division, as the electors determine.

§ 25. THE BALLOT.] When the electors vote by ballot, all the officers voted for shall be named in one ballot, which shall contain, written or printed, or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be chosen, and shall be delivered to one of the judges so folded as to conceal its contents.

§ 26. POLL LIST.] When the election is by ballot, a poll list shall be kept by the clerk of the meeting, on which shall be entered the name of each person whose vote is received.

§ 27. JUDGES TO DEPOSIT BALLOT.] When the election is by ballot, one of the judges shall deposit the ballot in a box provided for that purpose.

§ 28. JUDGES TO CANVASS.] At the close of every election by ballot, the judges shall proceed publicly to canvass the votes, which canvass when commenced, shall continue without adjournment or interruption until the same is completed.

§ 29. MANNER OF CANVASSING.] The canvass shall be conducted by taking a ballot at a time from the ballot-box and counting until the number of ballots is equal to the number of names on the poll list, and, if there are any left in the box they shall be immediately destroyed, and the person having the greatest number of votes for any office shall be declared duly elected ;

Provided, That if two or more persons have an equal and the

highest number of votes for any office, the judges of election shall at once publicly, by lot, determine who of such persons shall be declared elected. If, on opening the ballots, two or more ballots are found to be so folded that it is apparent that the same person voted them, the board shall destroy such votes immediately.

§ 30. RESULT TO BE READ TO MEETING.] The canvass being completed, a statement of the result shall be entered at length by the clerk of the meeting, in the minutes of its proceedings, to be kept by him as before required, which shall be publicly read by him to the meeting, and such reading shall be deemed notice of the result of the election, to every person whose name is entered on the poll list as a voter.

§ 31. MINUTES TO BE FILED.] The minutes of the proceedings of every town meeting, subscribed by the clerk of said meeting and by the judges, shall be filed in the office of the town clerk, within two days after such town meeting.

§ 32. NOTICE OF ELECTION.] The clerk of every town meeting, within ten days thereafter, shall transuit to each person elected to any town office, whose name is not entered on the poll list as a voter, notice of his election.

VII.—ANNUAL TOWN MEETING FAILING TO ELECT.

§ 33. PROCEEDINGS WHEN TOWN MEETING FAILS TO ELECT.] In case any town refuses or neglects to organize and elect town officers at the time fixed by law for holding annual town meetings, twelve freholders of the town may call a town meeting for the purpose aforesaid, by posting up notices in three public places in such town, giving at least ten days notice of such meeting; which notice shall set forth the time and place and object of such meeting; and the electors, when assembled, by virtue of such notice, shall possess all the powers conferred upon them at the annual town meeting. In case no such notice is given, as aforesaid, within thirty days after the time for holding the annual town meeting, the board of county commissioners of the county shall, on the affidavit of any freeholder of said town, filed in the office of the clerk of the board, setting forth the facts, proceed, at any regular or special meeting of the board, and appoint the necessary town officers of such town, and the persons so appointed shall hold their respective offices until others are elected and qualified in their places, and shall have the same powers and be subject to the same duties as if they had been duly elected.

VIII.—QUALIFICATION OF OFFICERS.

§ 34. VOTER ELIGIBLE TO OFFICE.] Every person qualified to vote at town meetings is eligible to any town office.

§ 35. OATH OF OFFICERS.] Every person elected or appointed to the office of supervisor, town clerk, assessor, treasurer or constable, with ten days after he is notified of his election or appointment, shall take and subscribe before the town clerk or justice of the peace, an oath to support the constitution of the United States, and of the organic act of this Territory, and faithfully to discharge the duties of his office (naming the same) to the best of his ability. Such oath shall be administered without fee, and certified by the officer before whom it was taken, with the date of taking the same.

§ 36. CERTIFICATE TO BE FILED.] The person taking such oath shall immediately, and before entering upon the duties of his office, file the certificate of such oath in the office of the town clerk.

§ 37. JUSTICE TO TAKE OATH AND GIVE BOND.] Every person elected or appointed to the office of justice of the peace, shall, within ten days after receiving notice thereof, take and subscribe before any other officer duly authorized to administer oaths, an oath to support the constitution of the United States and the organic act of the Territory of Dakota, and faithfully and impartially to discharge the duties of his office according to the best of his ability. He shall also execute a bond to the board of supervisors, with two or more sufficient sureties, to be approved by the chairman, in the penal sum of not less than five hundred dollars, nor more than one thousand dollars, conditioned for the faithful discharge of his official duties. Said chairman shall endorse thereon his approval of the sureties named in such bond, and such justice shall immediately file the same, together with his oath of office, duly certified, with the clerk of the district court of the proper county for the benefit of any person aggrieved by the acts of said justice, and any person aggrieved may maintain an action on said bond in his own name against said justice and his sureties.

§ 38. BOND OF TREASURER.] Every person elected or appointed to the office of treasurer, before he enters upon the duties of his office, shall execute and deliver to the supervisors of the town and their successors in office, a bond with one or more sureties, to be approved by the chairman of the board, in double the probable amount of money to be received by him, which amount shall be determined by said board, conditioned for the faithful execution of his duties as such treasurer.

§ 39. BOND TO BE FILED.] The said chairman shall within six days thereafter file such bond with said approval indorsed thereon, in the office of register of deeds, who shall record the same in a book provided for that purpose.

§ 40. CONSTABLE'S OATH AND BOND.] Every person chosen to the office of constable, before he enters upon the duties of his office, and within eight days after he is notified of his election or appointment, shall take and subscribe the oath of office prescribed by law, and execute a bond to the board of supervisors in such penal sum as the supervisors direct, with one or more sufficient sureties to be approved by the chairman of said board or the town clerk, conditioned for the faithful discharge of his duties. The chairman of said board or the town clerk shall, if such bond is approved, endorse his approval thereon, and cause such bond to be filed with the town clerk for the benefit of any person aggrieved by the acts or omissions of said constable, and any person so aggrieved, or the town, may maintain an action on said bond against said constable and sureties.

§ 41. WHAT DEEMED REFUSAL TO SERVE.] If any person elected or appointed to the office of treasurer or constable does not give such security and take such oath as is required above within the time limited for that purpose, such neglect shall be deemed a refusal to serve.

§ 42. SAME.] If any person elected or appointed to any town office of whom an oath or bond is required neglects to file the same within the time prescribed by law, such neglect shall be deemed a refusal to serve in such office.

§ 43. PENALTY FOR NEGLECT TO TAKE OATH.] If any town officer who is required by law to take the oath of office enters upon the duties of his office before taking such oath, he forfeits to such town the sum of fifty dollars.

§ 44. ROAD OVERSEER AND POUND-MASTER TO FILE ACCEPTANCE.] Every person elected or appointed to the office of overseer of highways or poundmaster, before he enters upon the duties of his office, and within ten days after he is notified of his election or appointment, shall file in the office of the town clerk a notice signifying his acceptance of such office. A neglect to file such notice shall be deemed a refusal [to] serve.

§ 45. TERM OF OFFICE.] Town officers, except justices of the peace and constables, hold their offices for one year and until their successors are elected or appointed to their places and are qualified. The justices of the peace and constables shall hold their offices for two years and until others are chosen and qualified.

IX.—FILLING VACANCIES.

§ 46. BOARD MAY ACCEPT RESIGNATION.] The board of supervisors of any town may, for sufficient cause shown to them, accept the resignation of any town officer in their town, and whenever they accept any such resignation they shall forthwith give notice thereof to the town clerk.

§ 47. VACANCIES, HOW FILLED.] Whenever any town fails to elect the proper number of town officers, or whenever any person elected to a town office fails to qualify, or whenever any vacancy happens in any town office from death, resignation, removal from town, or other cause, the justices of the peace of the town, together with the board of supervisors, or a majority of them, shall fill the vacancy by appointment, by warrant under their hand, and the persons so appointed shall hold their offices until the next annual town meeting and until others are elected and qualified in their places, and shall have the same power and be subject to the same duties and penalties as if they had been duly elected.

§ 48. VACANCIES IN APPOINTING BOARD.] Whenever a vacancy occurs from any cause in any of the offices enumerated in the foregoing section, composing the board of appointment for the appointment of town officers in case of vacancy, the remaining officers of such appointing board shall fill any vacancy thus occurring.

§ 49. WHEN COUNTY CLERK TO APPOINT ASSESSOR.] When any township assessor is elected and fails or refuses to qualify to discharge the duties of his office, or if the electors of said township fail, from any reason whatever, to elect an assessor, and the town board of said township fails or refuses to appoint an assessor for said township on or before the first day of March of that year for which said assessor is to serve, then it shall be the duty of the county auditor or county clerk to appoint an assessor for said township, who shall be a resident of said county.

X.—BOARD OF HEALTH.

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

§ 51. POWERS.] 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 a misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months.

§ 52. PUBLIC NOTICE.] 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 town or the county; 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.

§ 53. PENALTY FOR REFUSAL TO OBEY ORDER.] Whenever any nuisance, source or 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 thereof 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 town.

§ 54. IN CASE OF REFUSAL TO OBEY ORDER.] 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.

§ 55. BOARD TO ENTER INFECTED PREMISES—PROCEEDINGS IF OPOSED.] Whenever the board of health thinks it necessary, for the preservation of the health of its 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 town, stating the facts in the case so far as he has knowledge thereof.

§ 56. SAME.] 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.

§ 57. QUARANTINE.] When any person coming from abroad or residing in any town or city in this Territory is infected or lately has been infected with the smallpox or other contagious disease dangerous to the public health, the board of health of the town or city where such sick or infected person is, may immediately cause such person to be removed to a separate house, if it can be done without danger to his or her health, and shall provide for such person or persons, nurses, medical attendance and other necessities, which shall be a charge in favor of such town or city upon the person so provided for, his parents, guardian or master, if able, otherwise upon the county to which he belongs, or upon the Territory, if said person be a non-resident of the Territory.

§ 58. SAME.] If such infected person cannot be removed without danger to his or her 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.

§ 59. BOARD TO PROVIDE 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.

XI.—POWERS AND DUTIES OF SUPERVISORS.

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

§ 61. IMPROVING STREETS.] Whenever any incorporated village or town which is laid out into streets is included in the limits of an organized township, the town supervisors are authorized to cause improvement to be made in any street that may be needed as a highway, if the corporate authorities of said village or town neglect to make such improvements.

§ 62. BOARD TO PROSECUTE ACTIONS.] The supervisors shall, by their name of office, prosecute for the benefit of the town, all actions upon bonds given to them, or their predecessors in office ; and shall also sue for and collect all penalties and forfeitures, in respect to which no other provision is made, incurred by any officer or inhabitant of the town ; and they shall have power, in like manner, to prosecute for any trespass committed on any public inclosure, highway or property belonging to the town, and shall pay all moneys collected under this section to the town treasurer.

§ 63. QUORUM.] Any two of the supervisors constitute a quorum for the performance of any duties required by law of the town supervisors, except when otherwise provided.

XII.—DUTIES OF TOWN CLERK.

§ 64. CLERK MAY ADMINISTER OATH.] The town clerks of the several towns, city clerks of all cities, and recorders of all villages in this Territory, are hereby authorized to administer all oaths and take all acknowledgments of instruments, authorized or required by law.

§ 65. MAY APPOINT DEPUTY, ETC.] The town clerk shall have the custody of the record books and papers of the town, 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. He may at his discretion appoint a deputy town clerk, for whose acts he shall be responsible. Before any deputy town clerk shall enter upon the duties of his office, he shall take and subscribe the oath required by law, which oath shall be filed in the office of the clerk of the court.

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

§ 67. OATH AND BOND.] Every person elected or appointed to the office of town clerk in any of the towns 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 town 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 clerk of the district court for the benefit of any person aggrieved by the acts or omissions of said town clerk, and any person so aggrieved, or the town, may maintain an action on said bond against said town clerk and sureties.

§ 68. CLERK TO SEND NAME TO DISTRICT COURT CLERK.] Every town clerk, immediately after the qualification of any constable, elected or appointed in his town, shall transmit to the clerk of the district court of the county the name of such constable.

§ 69. CLERK TO SEND CERTAIN NOTICE TO DISTRICT COURT CLERK.] Each town clerk shall, immediately after the election of any justice of the peace in his town, transmit a written notice thereof to the clerk of the district court of said county, 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.

§ 70. PENALTY FOR NEGLECT.] If any town 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.

XII.—DUTIES OF TOWN TREASURER.

§ 71. TREASURER'S DUTIES.] The town treasurer shall receive and take charge of all moneys belonging to the town, or which are by law required to be paid into the town treasury, and shall pay over and account for the same upon the order of such town, or the officers thereof, duly authorized in that behalf, made pursuant to law, and shall perform all such duties as may be required of him by law.

§ 72. ACCOUNT OF RECEIPTS AND DISBURSEMENTS.] Every town 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 town for that purpose, and exhibit such account, together with his vouchers, to the town 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.

§ 73. TOWN TREASURER TO DRAW MONEYS FROM COUNTY.] The town 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 town, and on receipt of such moneys shall deliver proper vouchers therefor. Each town treasurer shall be allowed and entitled to retain two per centum of all moneys paid into the town treasury for receiving, safe keeping and paying over the same according to law, except such moneys as are appropriated for bounty to soldiers, of which he shall only be allowed to retain one per cent.

§ 74. TOWN TREASURER'S STATEMENT.] Each town treasurer, within five days preceding the annual town meeting, shall make out a statement in writing of the moneys by him received into the town 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 town clerk, and shall be by such clerk carefully preserved and recorded in the town book of records.

§ 75. PENALTY FOR NEGLECT.] Every town 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 impaneled, and may be recovered by a civil action, in the name of the person who prosecutes the same with costs of the suit; one-half shall go to the person so prosecuting, and the remainder to the town of which such delinquent is or has been treasurer.

§ 76. TREASURER'S RECORD—WARRANTS.] Each and every town treasurer in this Territory shall keep a suitable book to be provided at the expense of the town, in which he shall enter the town orders that he cannot pay for want of funds when presented to him for payment, which orders when presented shall be endorsed by such treasurer by putting upon the back of the same, the words: "Not paid for want of funds," giving the date of such indorsement, signing the name as town treasurer, which order, when so indorsed, shall bear interest from that date until paid. All town orders shall be paid in the order that they are registered, out of the first moneys that come into the town treasurer's hands for such purposes.

XIV.—TOWN BOARD OF AUDITORS.

§ 77. SUPERVISORS TO AUDIT ACCOUNTS.] The supervisors constitute a town board for the purpose of auditing all accounts payable by said town; and if for any cause there are not three supervisors present to constitute said board, the chairman, and in his absence, either of the supervisors, may notify any one or so many of the justices of the peace of the town as will, together with the supervisors present, make a board of three; and the board so constituted shall have authority to act as the town board.

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

§ 79. BOARD TO AUDIT ACCOUNTS AT ANNUAL MEETING.] The board shall also, at their annual meeting in each year, examine and audit the accounts of the town treasurer for all moneys received

and disbursed by him as such officer; and they shall audit the accounts of all other town officers who are authorized by law to receive or disburse any money of the town by virtue of their office.

§ 80. SHALL DRAW UP REPORT.] Such board shall draw up 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 town, and an estimate of the sum necessary for the current expenses thereof, the support of the poor and other incidental expenses for the ensuing year.

§ 81. REPORT TO BE READ.] Such report shall be produced and publicly read by the town clerk at the next ensuing town 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.

§ 82. TREASURER TO PAY ORDERS.] The amount of any account audited and allowed by the town board, and the amount of any account voted to be allowed at any town meeting, shall be paid by the town 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 town board for any sum due from such town, shall be receivable in payment of town taxes of said town.

§ 83. CLERK OF BOARD.] The town clerk shall be clerk of the town board, and shall keep a true record of all their proceedings in his office.

XV.—TOWN BOARD OF REVIEW.

§ 84. REVIEWING ASSESSMENT, CORRECTIONS, ETC.] The board of supervisors of each town, the assessor, recorder and president of each incorporated village, and the assessor, recorder and mayor of each city (except cities whose charter provides for a board of equalization), shall meet on the fourth Monday of June, at the office of the town clerk or recorder [or] city clerk, for the purpose of reviewing the assessment of property in such town or district, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor, and in case any property, real or personal shall have been omitted by inadvertence or otherwise, it shall be the duty of said board to place the same upon the list with the true value thereof, and proceed to correct the assessment so that each tract or lot of real property, and each article, parcel, or class of personal property,

shall be entered on the assessment list at the true and full value thereof; but the assessment of the property of any person shall not be raised until such persons have been duly notified of the intent of the board so to do. And on the application of any person considering himself aggrieved, they shall review the assessment and correct the same as shall appear to them just. Any two of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all cases presented on that day. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of personal property, shall be heard and decided by the town board;

Provided, That the complaints of non-residents in reference to the assessment of any property, real or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board.

§ 85. ASSESSOR TO GIVE NOTICE OF MEETING.] The assessor shall cause at least ten days previous notice of the time and place of the meeting of the town board of review, by posting notices in at least three public places in his town or district, but the failure to give such notice or hold such meeting, shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied.

XVI.—FEES OF TOWN OFFICERS.

§ 86. PAY OF OFFICERS.] The following town officers are entitled to compensation at the following rates for each day necessarily devoted by them to the service of the town, in the duties of their respective offices. The town assessors shall receive for their services three dollars per day while engaged in their respective duties as such assessors;

Provided, That compensation received by such assessor shall not exceed the sum of \$60.00 in any one year. The town clerks and supervisors shall receive for their services one dollar and a half per day when attending to business in their town, and two dollars when attending to business out of the town; no town supervisor shall receive more than thirty-five dollars compensation in any one year;

Provided, That the town clerk shall be paid fees for the following, and not a per diem: For serving notices of election upon town 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 notices required by law, twenty-five cents each; for recording any order or any instrument or writing authorized by

law, ten cents for each hundred words; for copying any record of instrument on file in his office and certifying the same, ten cents for each hundred words, to be paid for by the person applying for the same.

Provided, further, That at any town 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.

XVII.—CLAIMS AGAINST TOWNS.

§ 87. ACCOUNTS, HOW STATED.] Before any account, claims or demands against any town or county of this Territory, for any property or services for which such town or county shall be liable, shall be audited or allowed by the board or officers authorized by law to audit and allow the same, the person in whose favor such account, claim or demand shall be, or his agent, shall reduce the same to writing in items, and shall verify the same to the effect that such account, claim or demand is just and true, that the money therein charged was actually paid for the purposes therein stated, that the property therein charged was actually delivered or used for the purposes therein stated and was of the value therein charged, and that the services therein charged were actually rendered and of the value therein charged, or in case such services were official for which fees are prescribed by law, then that the fees or amounts charged therefor are such as are allowed by law, and that no part of such account, claim or demand, has been paid;

Provided, That the provisions of this act shall not apply to any claim or demand for an annual salary or per diem of jurors or witnesses fixed by, or in pursuance of, any statute.

§ 88. ACCOUNTS TO BE VERIFIED.] The verification required by the preceding section may be made before any officer authorized by law to administer oaths, or before any member of the board to which the account, claim or demand shall be presented to be audited, and every member of such board is hereby authorized to administer the proper oath in such cases; and every person who shall willfully or knowingly swear falsely on any such cases, shall be deemed guilty of willful perjury, and be punished accordingly;

Provided, That in case any such account, claim or demand shall be made or presented by any administrator or executor on behalf of the estate of a deceased person, he shall not be required to verify the same, but may prove the same otherwise to the satisfaction of the board.

§ 89. CONSIDERATION OF ACCOUNT.] Whenever an account,

claim or demand against any town or county shall have been verified in the manner prescribed in this act; the board of officers to whom the same shall be presented may receive and consider the same, and may allow or disallow the same in whole or in part, as to such board or officers shall appear just or lawful, saving to such claimants the right of appeal.

§ 90. PENALTY FOR AUDITING ACCOUNT NOT VERIFIED.] Any member of such board who shall audit and allow any account, claim or demand required by this act to be itemized and verified, without the same having been first duly itemized and verified, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

XVIII.—SUITS BY AND AGAINST TOWNS.

§ 91. PROCEEDINGS IN CASE OF SUIT.] Whenever any controversy or cause of action exists between towns, or between a town and an individual or corporation, such proceedings shall be had either at law or equity, for the purpose of trying and settling such controversy, and the same shall be conducted in the same manner, and the judgment or decree therein shall have the like effect as in other actions or proceedings of a similar kind between individuals and corporations.

§ 92. TOWN TO SUE IN ITS NAME, EXCEPT.] In all such actions and proceedings the town shall sue and be sued by its name, except where town officers are authorized by law to sue in their name of office for the benefit of the town.

§ 93. PROCESS MUST BE SERVED AS DIRECTED.] No town or town officer shall be required to appear, answer, or plead to any such action at the first term of the court after the commencement thereof, when the same is commenced in the District Court, unless the process aforesaid is served as herein directed, at least thirty days before the commencement of the term.

§ 94. SERVICE, ON WHOM.] In legal proceedings against a town by name, all papers shall be served on the chairman of the board of supervisors, and in case of his absence, on the town clerk, and whenever any action or proceeding is commenced, said chairman shall attend to the defense thereof, and lay before the electors of the town, at the first town meeting, a full statement of such proceedings, for their direction in regard to the defense thereof.

§ 95. JURISDICTION.] No action in favor of any town shall be brought before any justice of the peace residing in such town.

§ 96. RECOVERY.] Whenever any action is brought to recover

a penalty imposed for any trespass committed on the lands belonging to the town, if it appears on the trial thereof that the actual amount of injury to such town lands in consequence of such trespass, exceeds the sum of twelve dollars and fifty cents, then the amount of actual damage, with costs of suit, shall be recovered in said action, instead of any penalty for said trespass imposed by the town meeting, and such recovery shall be used as a bar to every other action for the same trespass.

§ 97. COURT MAY PARTITION, WHEN.] Whenever by decree or decision, in any action or proceeding brought to settle any controversy in relation to town commons or other lands, the common property of a town, or for the partition thereof, the rights of any town are settled and confirmed, the court in which such proceedings are had may partition such lands according to the rights of parties.

§ 98. PAYMENT OF JUDGMENT.] When a judgment is recovered against any town or against any town 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 town 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 town 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. If payment is not made within thirty [days] after the time fixed by law for the county treasurer to pay over to the town treasurer the money in his hands belonging to such town, levied for the purpose of paying such judgment, next after the rendition of such judgment, execution may be issued on such judgment, but only town property shall be liable thereon.

§ 99. WHEN JUDGMENT IS NOT SATISFIED.] If judgment for the recovery of money is rendered against any town, and the judgment is not satisfied, or proceedings thereon stayed by appeal or otherwise, before the next annual meeting of said town, a certified copy of the docket of the judgment may be presented to said town at said annual meeting. The supervisors of the town shall thereupon cause the amount due on the judgment, with interest from the date of its recovery, to be added to the tax of said town, and the same certified to the county auditor or county clerk, and collected as other town taxes are collected.

XIX.—TOWN CHARGES—HOW LEVIED.

§ 100. TOWN CHARGES.] The following shall be deemed town charges:

First—The compensation of town officers for services rendered their respective towns.

Second—Contingent expenses necessarily incurred for the use and benefit of the town.

Third—The moneys authorized to be raised by the vote of the town meeting for any town purpose.

Fourth—Every sum directed by law to be raised for any town purpose :

Provided, That no tax for town purposes shall exceed the amount voted to be raised at the annual town meeting, as provided in subdivision nine, section fifteen (15) aforesaid.

§ 101. HOW LEVIED.] The moneys necessary to defray the town charges of each town shall be levied on the taxable property in such town, in the manner prescribed in the chapter for raising revenue and other money for Territory and county purposes and expenses.

XX.—BOOKS AND PAPERS OF OUTGOING OFFICERS.

§ 102. SUCCESSOR IN OFFICE TO DEMAND RECORDS.] Whenever the term of any supervisor, town clerk or assessor expires, and another person is appointed or elected to such office, such successor, immediately after he enters upon the duties of his office, shall demand of his predecessor all books and papers under his control belonging to such office.

§ 103. SAME.] 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 elected shall make such demand of his predecessors or of any person having charge of such books and papers.

§ 104. RECORDS 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.

§ 105. DEMAND FOR RECORDS OF ADMINISTRATOR.] Upon the death of any of the officers enumerated, the successor of such officers 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.

XXI.—GUIDE POSTS.

§ 106. SHALL ERECT 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.

§ 107. REPORT OF GUIDE POSTS.] The 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 town, 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.

§ 108. PENALTY FOR NEGLIGENCE TO FURNISH GUIDE POSTS.] Upon the report of the supervisors the town shall determine the several places at which guide posts shall be erected and maintained, which shall be recorded in the town records. A town 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 town shall be estopped from alleging that such guide posts were not necessary or convenient.

§ 109. CHARACTER OF GUIDE POSTS.] At each of the places determined by the town, 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 fore-finger thereof pointed towards the towns or places to which said roads lead:

Provided, That the inhabitants of any town may, at their annual meeting, agree upon some suitable substitute for such guide posts.

§ 110. FORFEIT FOR NEGLIGENCE TO FURNISH GUIDE POSTS.] Every town which neglects or refuses to erect and maintain such guide posts, or some suitable substitute therefor, shall forfeit annually the sum of five dollars for every guide post which it so neglects or refuses to maintain, which sum may be sued for and collected by any person, before any justice of the peace of the proper county, and the moneys so collected shall be paid into the town treasury for the benefit of the roads and bridges of the said town.

XXII.—PUBLIC PLACES.

§ 111. VOTERS TO DESIGNATE PUBLIC PLACES.] At the annual town meeting in each year the legal voters present at each meeting shall determine and designate three places in the town as public, or the most public places of such town, and that all legal

notices required to be posted in three public, or the most public places of a town, shall be posted up at such places at least, and they shall make provision for the erection and maintenance of posts on which to post up notices as aforesaid in all places so designated, in which there is no sufficient natural convenience for that purpose.

XXIII.—POUNDS AND POUNDMASTERS.

§ 1 2. POUNDS.] Whenever the electors of any town determine at their annual town meeting to erect one or more *towns* [pounds] therein, the same shall be under the care and direction of such poundmasters as are chosen or appointed for that purpose.

§ 113. DISCONTINUE POUNDS.] The electors of any town may, at any annual town meeting, discontinue any pounds therein.

§ 114. FEES OF POUNDMASTER—SALES, ETC.] The poundmaster is allowed the following fees, to-wit :

For taking into pound or discharging therefrom any horse, ass or mule, and all neat cattle, twenty cents each. For every sheep or lamb, ten cents each ; and for every hog, large or small, ten cents ; and twenty-five cents for keeping each twenty-four hours in pound. And the poundmaster has a lien *on* 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 is paid ; and if the same are not paid and said animals removed within four days after they are impounded, the said poundmaster shall give notice by posting the same in three of the most public places in said town 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 town meetings of said town are usually held ; and on the day designated in such notice the said poundmaster shall expose the said animals for sale, and sell the same to the highest bidder in cash, for which service he shall receive two per cent. of the purchase money for each animal. Out of the money realized from said sale the said poundmaster shall deduct all his legal fees and charges and pay the balance if any to the chairman of the town 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 town 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 said poundmaster ; but if said money is not claimed within that time,

then the sum so received shall be retained for the use of said town.

XXIV.—TOWNSHIP DEBTS AND BONDS.

§ 115. LIMIT OF DEBT.] No town 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 town shall assess for township purposes more than ten mills on the dollar of taxable property for any one year.

§ 116. BONDS OF TOWN.] The board of supervisors of the organized townships of this Territory, or those that may hereafter be organized, be and the same are hereby authorized and fully empowered to issue the bonds or orders of their respective towns with coupons attached, in such amounts and at such periods as they may be directed by two-thirds of the legal voters present and voting at any legally called town meeting held for that purpose; such bonds or orders to be payable in such amounts and at such times, not exceeding six years from date, as two-thirds of the legal voters present and voting at such meeting shall determine, with interest thereon not to exceed eight per cent. per annum payable annually; which bonds or orders and coupons shall be signed by the chairman of the board of supervisors and countersigned by the clerk of said town;

Provided, That nothing herein contained shall be construed to authorize the issuing of said bonds or orders unless the same shall have first been voted for by ballot by two-thirds of all the legal voters present and voting at any annual town meeting, or special town meeting called for that purpose, notice of which, particularly specifying the object for which such meeting was called, have been posted in at least three public places in said town for not less than ten days previous to the time of calling the same.

§ 117. BONDS TO BE SOLD AT PAR.] No bonds or orders issued under the authority of this act shall be issued or negotiated for less than par value, nor shall said bonds or orders or the proceeds thereof be used or appropriated for any purpose whatever other than specified in this act.

§ 118. LEVYING BOND TAX.] Said board of supervisors and their successors are hereby authorized and it is hereby made their duty, on or before the first day of September next after the date of said bonds or orders, and in each and every year thereafter on or before the first day of September, until the payment of said bonds or orders and interest is fully provided for, to levy and in due form to certify to the auditor or county clerk of the county in which such town is situated, a tax upon the taxable property of

said town, equal to the amount of principal and interest maturing next after such levy, and in the discretion of said board of supervisors, such further sums as it shall deem expedient, not exceeding twenty per cent. of such maturing bonds or orders and interest, which taxes shall be payable in money, and shall constitute a fund for the payment of said bonds or orders and the interest thereon.

XXV.—MISCELLANEOUS PROVISIONS.

§ 119. TOWN OFFICER NOT TO HAVE INTEREST IN CONTRACT.] No town officer shall become a party to or interested, directly or indirectly, in any contract made by the board of which he may be a member; and every contract or payment voted for or made contrary to the provisions of this section is void; and any violation of this section hereafter committed shall be a malfeasance in office which will subject the officer so offending to be removed from office.

§ 120. ELECTION DISTRICT.] Each town organized under this chapter, or any law heretofore in force, constitutes an election district.

§ 121. INCORPORATED CITY TO HAVE POWERS OF THIS CHAPTER.] 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 powers, the same powers conferred by this chapter upon towns, in the manner prescribed by law.

CHAPTER II.—ROADS, CARTWAYS AND BRIDGES.

I.—PUBLIC HIGHWAYS.

§ 1. WHAT ARE PUBLIC ROADS.] All public roads and highways within this Territory which have been open and in use as such, and included in a road district in the town in which the same are respectively situated during twenty years next preceding the time when this act shall take effect, are hereby declared to be public roads or highways and confirmed and established as such whether the same have been lawfully laid out, established and opened or not.

§ 2. SAME.] Every road laid out by the proper authorities, as provided for in this chapter, from which no appeal has been taken within the time limited for taking such appeal, is hereby declared a public highway to all intents and purposes, and all persons having refused or neglected to take an appeal, as provided for in this chapter, shall forever be debarred from any further redress.

§ 3. CONGRESSIONAL SECTION LINES.] In all townships in this Territory in which no public roads have been laid out, or which have not been organized, the congressional section lines shall be considered public roads, to be opened to the width of two rods on each side of such section lines, upon the order of the board of supervisors, without any survey being had, except where it may be necessary on account of variations caused by natural obstacles, subject, however, to all the provisions of this chapter in relation to assessment of damages.

II.—ROAD DUTIES OF SUPERVISORS.

§ 4. WHO TO HAVE CARE OF ROADS, ETC.] The supervisors in the several towns in this Territory shall have the care and superintendence of roads and bridges therein, shall give directions for the repairing of the roads and bridges in their respective towns, regulate roads already laid out, and alter each of them, as they, or a majority of them deem proper, as hereinafter provided; divide the respective towns into so many road districts as they deem convenient, by writing under their hands, to be lodged with the town clerk, and by him entered in the town records; such division to be made annually, if they deem it necessary, and in all cases to be made within at least twenty days before the annual town meeting; they shall assign to each of the said road districts such of the inhabitants liable to work on highways, as they think proper, having regard to proximity of residence, and require the overseers of highways, as often as they deem necessary, to warn all persons liable to work on roads, to come and work thereon, with such tools, carriages, cattle or teams as the said overseers, or either of them, shall direct.

§ 5. REPORT OF ROADS.] The supervisors in each town shall render to the annual town meeting an account in writing, stating the labor assessed and performed in such town, the sums received by them for fines and commutation, and all other moneys received under this chapter; a statement of the improvements necessary to be made on the roads and bridges, and an estimate of the probable expense of making such improvements beyond that of the labor to be assessed in that year, that the road tax will accomplish; also a statement in writing of all expenses and damages in consequence of laying out, altering or discontinuing roads.

III.—DUTIES OF OVERSEERS OF HIGHWAYS.

§ 6. DUTIES.] The overseers of highways in each town shall repair and keep in order the roads within their respective districts; warn all persons from whom labor is due to work on highways at such times and places within their several districts as they may

think proper; collect all fines and commutation money, execute all lawful orders of the supervisors, and deliver to the town clerk within sixteen days after election or appointment, a list, subscribed by such overseer, of the names of all the inhabitants in his road district who are liable to work on the highways.

§ 7. WHEN OVERSEER TO BE APPOINTED.] If any person chosen or appointed to the office of overseer of highways refuses to serve, or if his office becomes vacant, the supervisors of the town shall by warrant under their hands, appoint some person in his stead, and the overseer so appointed shall have the same powers, subject to the same orders, and liable to the same penalties as overseers chosen at town meetings.

§ 8. NOTICE.] The supervisors making the appointment, shall cause such warrant to be forthwith filed in the office of the town clerk, who shall give notice to the person appointed as in other cases.

§ 9. PENALTY FOR NEGLIGENCE TO PERFORM DUTIES.] Every overseer of highways who refuses or neglects to perform any of the duties of this chapter, or which may be lawfully required of him by the supervisors of his town, shall for every such refusal or neglect, forfeit the sum of ten dollars to be sued for by the chairman of the board of supervisors of the town, and when recovered, to be applied by him in making and improving the roads and highways therein.

IV.—HIGHWAY LABOR AND ROAD TAX.

§ 10. MEETINGS OF SUPERVISORS.] The supervisors of each town shall meet at the town clerk's office within eighteen days after they are chosen, on such day as they agree upon, and afterwards at such other time and places as they think proper.

§ 11. MAKE ESTIMATE OF LABOR.] The town clerk shall deliver the list filed by the overseers to the supervisors, who shall proceed to ascertain, estimate and assess the highway labor and road tax to be performed and paid in their town the next ensuing year.

§ 12. WHO LIABLE TO LABOR.] Every male inhabitant being above twenty-one years and under the age of sixty, excepting paupers, idiots, lunatics, and such others as are exempt by law shall be assessed not less than one day nor more than four days in each year. Supervisors shall assess a road tax on all real estate and personal property liable to taxation of the town to any amount they may deem necessary not exceeding one dollar on each one hundred dollars of value as valued on the assessment roll of the preceding year. They shall affix the name of each person named in the list so furnished by the overseers, the number of days assessed to each person for highway labor, and also a description

of each tract of land, and the name of the owner, if known, with the valuation thereof, as taken from the assessment roll of the previous year, and the amount of road tax assessed thereon, in a separate column ; the list so prepared shall be signed by the supervisors and deposited with the town clerk to be filed in his office.

§ 13. HIGHWAY TAX LIST.] The supervisors shall also place on the land road list, the names of all persons against whom road tax on personal property only has been assessed, and place in a separate column opposite the name of each person on the list the amount of road tax assessed on personal property, which amount shall be subject to collection or commutation by labor, the same as land road tax assessed on real estate.

§ 14. COPY TO BE FURNISHED.] The supervisors shall direct the town clerk to make a certified copy of each list, after which the town clerk shall deliver the several copies to the respective overseers of highways of the several districts in which highway labor is assessed, for which he shall receive a fee of twenty-five cents for each copy so delivered. One copy for each overseer shall contain the name and number of days assessed to each person, the other the land and personal property road tax.

§ 15. OVERSEER TO ADD CERTAIN NAMES.] The overseers of highways shall add the names of persons left out of such list, and of new inhabitants, and they shall be rated in the same proportion to work on the highways as others are rated by the supervisors on such list.

§ 16. NOTICE.] Overseers of highways shall give at least three days notice to all persons assessed to work on highways, and living within the limits of their respective districts, of the time and places when and where they are to appear for that purpose and with what implements ; but no person being a resident of the town shall be required to work on any highway other than in his own district in which he resides, but may elect to pay any land road tax in labor in the district in which said land is situated, and shall be allowed one dollar and fifty cents for himself and a like amount for the use of his team and wagon, or plow ; such labor shall be at the disposition of the overseer of their respective districts.

§ 17. POWERS OF OVERSEER.] Road overseers have power, and it is hereby made their duty, whenever any public highway becomes obstructed or unsafe from any cause whatever, to call upon any or all persons liable to poll tax in his district to come forth with such tools or teams as the overseer may direct, and work upon such highway in removing obstructions or repairing dangerous places, and for all such labor performed under the directions of the overseers by any person in excess of road tax assessed against

him for the year, the road overseer shall give a receipt, stating the value of such labor, and said receipt shall be received in payment of any road tax due from any person to said district in that or any succeeding year, and any road overseer who fails to perform his duty, as required by law, shall be subject to prosecution therefor by the supervisors of this town, and upon conviction therefor, shall be liable to a fine of not less than five nor more than fifty dollars, and justices of the peace shall have jurisdiction, upon complaint made on oath, to hear and determine all causes arising under this section.

§ 18. COMMUTATION OF ROAD LABOR.] Every person liable to work upon the highways shall work the whole number of days for which he is assessed, but every such person other than the overseer of highways may elect to commute for the same, or for some part thereof, at the rate of one dollar and fifty cents per day, in which case such commutation money shall be paid to the overseer of highways of the district in which the person commuting shall reside, to be applied and expended by the overseer in the improvement of the roads and bridges of the same district. Overseers of highways, when such land tax is paid either in money or labor, shall write the word "paid" against such name or tract of land in their list on which the same is paid.

§ 19. PAYMENT.] Every person intending to commute for his assessment, or any part thereof, shall, within two days after he is notified to appear and work on the highways, pay the commutation money for the work required of him by such notice, and the commutation shall not be considered as made until such money is paid.

§ 20. POWER OF OVERSEER.] Every overseer of highways has power to require a team or cart, wagon or plow, with a pair of horses or oxen and a man to manage them, from any person having the same within his district.

§ 21. SUBSTITUTE.] Every person assessed to work on the highways, and warned to work, may appear in person or by an able-bodied man as a substitute, and the person or substitute so appearing shall actually work ten hours in each day, under a penalty of fifteen cents for every hour such person or substitute or person is in default, to be imposed as a fine on the person assessed.

§ 22. FINE FOR NEGLECT.] Every person so assessed and duly notified, who does not commute, and who refuses or neglects to appear as above provided, shall be fined for every day's refusal or neglect, the sum of two dollars. If he was required to furnish a team, carriage or implements, and refused or neglected so to comply, he shall be fined as follows:

For wholly omitting to comply with such requisition, four dollars for each day.

For omitting to furnish a cart, wagon, or plow, one dollar for each day.

For omitting to furnish a pair of horses or oxen, one dollar and fifty cents for each day.

For omitting to furnish a man to manage the team, one dollar and fifty cents for each day.

§ 23. WHEN SUPERVISOR TO MAKE COMPLAINT.] Every overseer of highways, within nine days after any person, so assessed and notified, is guilty of any refusal or neglect for which a penalty or fine is prescribed in this chapter, unless satisfactory excuse is rendered to him for such refusal or neglect, shall make complaint to one of the justices of the peace of the town or an adjoining town.

§ 24. DUTY OF JUSTICE.] The justice to whom such complaint is made, shall forthwith issue a summons directed to any constable of the county, requiring him to summon such delinquent to appear forthwith before such justice, at some place to be specified in the summons, to show cause why he should not be fined according to law for such refusal or neglect, which summons shall be served personally.

§ 25. FINE.] If upon the return of such summons no sufficient cause is shown to the contrary, the justice of the peace shall impose a fine as provided in this chapter, for the offense complained of, and shall forthwith issue a warrant under his hand, directed to any constable of the county in which such delinquent resides, commanding him to levy such fine, with the cost of proceedings, on the goods and chattels of the delinquent, and no other property shall be exempt therefrom.

§ 26. FINE, HOW DISPOSED OF.] The constable to whom such warrant is directed, shall forthwith collect the moneys therein mentioned. He shall pay the fine when collected, to the justice who issued the warrant, who is hereby required to pay the same to the overseer who entered complaint, to be by him expended in improving the roads and bridges in his district.

§ 27. OVERSEER CANNOT EXCUSE.] The acceptance by an overseer of any excuse for refusal or neglect, shall not in any case exempt the person excused for commuting for or working the whole number of days for which he is assessed during the year.

§ 28. COMPENSATION OF OVERSEER.] Every overseer of highways is entitled to two dollars per day, to be paid out of the fines and commutation money, for every day he is necessarily employed in the execution of his duties as overseer. When there are no funds from fines or commutations, the supervisors may pay the

overseers out of any funds in their hands raised for the purpose of repairing and making roads and bridges.

§ 29. ROAD SUPERVISOR TO RETURN TAX LIST.] Every overseer of highways shall deliver to the town clerk of his town, on or before the first day of October in each year, the list furnished by the supervisors, containing the land and personal property road tax with his certificate thereon, that all taxes in said list opposite which the word "paid" is not written, are due and unpaid, according to the best of his knowledge and belief.

§ 30. PENALTY FOR REFUSAL.] If any overseer refuses or neglects to deliver such list, with his certificate, as provided in the last section, he shall for every offense forfeit the sum of five dollars and also the amount of tax remaining unpaid, to be recovered by the supervisors of such town, and applied by them in improving roads and bridges of such town.

§ 31. TOWN CLERK TO MAKE OUT DELINQUENT LIST.] The town clerk of each of the several towns shall receive the lists returned by the overseers of highways pursuant to section twenty-nine (29), and keep the same on file in his office, and shall make out and deliver to the auditor or county clerk of the county, on or before the first day of November in each year, a list containing a description of each tract or parcel of land on which the tax is delinquent, together with the name of the owner, if known, and if unknown, so state, and the amount of tax due and remaining unpaid on each, and containing all of the unpaid road taxes levied upon personal property according to the lists on file in his office, and shall make his certificate thereon to the effect that the same is a correct list of delinquent road taxes for the year therein stated, as appears from the several lists returned by the overseers of highways, and on file in his office; and it is hereby made the duty of the county auditor or county clerk to extend such unpaid taxes upon the tax lists of the current year, to be collected in the same manner as other taxes. Such road tax, when collected, shall be paid to the town treasurer of the proper town upon the proper certificate of the auditor or county clerk of the county, and shall be applied by the supervisors of the town in the construction or repair of roads and bridges, to be paid by the town treasurer upon the order of the supervisors.

§ 32. DUTY OF ROAD SUPERVISOR.] It shall be the duty of every overseer of highways to have at least three fourths of the road labor assessed in his district worked out or actually expended on the highways previous to the first day of August in each year.

§ 33. ROAD SUPERVISOR'S REPORT.] Every overseer of highways shall, on the second Tuesday next preceding the time of holding the annual town meeting in his town within the year for

which he is elected or appointed, render to one of the supervisors of the town an account in writing, containing:

First The names of all persons assessed to work on the highways in the district in which he is overseer.

Second—The names of all those who have actually worked on the highway, with the number of days they have worked.

Third—The names of all those who have been fined, and the sums in which they have been fined.

Fourth—The names of all those who have commuted, and the manner in which the moneys arising from fines and commutations have been expended by him.

§ 34. PAY OVER MONEYS.] Every such overseer shall then and there pay to the supervisors all moneys remaining in [his] hands unexpended, to be applied by the supervisors on the roads and bridges in the town.

§ 35. PENALTY FOR REFUSAL.] If any overseer refuses or neglects to render such account, or if having rendered the same he shall refuse or neglect to pay any balance which may be due from him, he shall for every such offense forfeit the sum of five dollars, to be recovered with the balance of the moneys remaining in his hands, by the supervisors of the town, and applied to the improvement of the roads and bridges in such town.

V.—ALTERING, DISCONTINUING AND LAYING OUT ROADS.

§ 36. LAYING OUT ROADS.] The supervisors of the town may alter or discontinue any road, or lay out any new road upon the petition of not less than six legal voters, who own real estate, or who occupy real estate under the homestead or pre-emption laws of the United States, or under contract from the Territory of Dakota, within one mile of the road to be altered, discontinued or laid out; said petition shall set forth in writing a description of the road, and what part thereof is to be altered or discontinued, and, if for a new road, the names of the owners of the lands, if known, over which the road is to pass, the point at which it is to commence, its general course, and the point where it is to terminate:

And, provided further, That all roads or parts thereof heretofore or hereafter laid out by township supervisors and not opened to public use within ten (10) years from the time they were laid out, are hereby declared vacant.

§ 37. COPY OF PETITION TO BE POSTED.] Whenever any number of legal voters, as aforesaid, determine to petition the supervisors for the alteration or discontinuance of any road, or of laying out any new road, they shall cause a copy of their petition to be

posted up in three of the most public places of the town twenty days before any action is had in relation thereto.

§ 38. NOTICE TO ALL PARTIES TO BE GIVEN.] Whenever the supervisors receive a petition in compliance with the preceding sections for laying out, altering or discontinuing any highway, they shall, within thirty days, make out a notice and fix therein a time and place at which they will meet and decide upon such application, and the applicant shall, at least ten days previous to that time, cause such notice to be given to all occupants of the land through which such highway may pass, which notice shall be served personally or by a copy left at the abode of each occupant. The supervisors shall also cause copies of such notice to be posted in three public places in said town, at least ten days previous to such meeting; every such notice shall specify, as near as practicable, the highway proposed to be laid out, altered or discontinued, and the several tracts of land through which the same may pass.

§ 39. EXAMINATION OF HIGHWAY.] The supervisors upon being satisfied that the notices required in the preceding section have been duly served, proof of which shall be shown by affidavit, shall proceed to examine personally such highway, and shall hear any reasons for or against the laying out, altering or discontinuing the same, and shall decide upon the application as they deem proper.

§ 40. PROCEEDINGS WHEN ROAD IS LAID OUT, CHANGED OR DISCONTINUED.] Whenever the supervisors shall lay out, alter or discontinue any highway, they shall cause a survey thereof to be made when necessary, and they shall make out an accurate description of the highway so altered, discontinued or laid out and incorporate the same in an order to be signed by them, and shall cause such order, together with all the petitions and affidavits of service of notices, to be filed in the office of the town clerk, who shall note the time of filing the same, but on the refusal of the supervisors to lay out, alter or discontinue such road, they shall note the fact on the back of the petition, and file the same as aforesaid. All orders, petitions and affidavits, together with the award of damages, shall be made out and filed within five days after the date of the order for laying out, altering or discontinuing such highway. But the town clerk shall not record such order within thirty days, nor until a final decision is had, and not then unless such order is confirmed. And after such order is confirmed, and such order, together with the award, has been recorded by such town clerk, the same shall be sent by him to the county auditor or county clerk, who shall file and preserve all such papers thus transmitted to him. And in case the supervisors shall fail to file such order within twenty days, they shall be deemed to have decided against such application.

§ 41. ORDER, COMPETENT EVIDENCE.] The order laying out, altering or discontinuing any highway, or a copy of the record duly certified by the town clerk, shall be received in all courts as competent evidence of the facts therein contained, and shall be *prima facie* evidence of the regularity of the proceedings prior to the making of such order, except in cases of appeal when such appeal has been taken within the time limited in this chapter.

§ 42. DAMAGES.] The damages sustained by reason of laying out, altering or discontinuing any road, may be ascertained by the agreement of the owners and supervisors, and unless such agreement is made, or the owner shall, in writing, release all claim to damages, the same shall be assessed in the manner hereinafter prescribed, before the same is opened, worked or used. Every agreement and release shall be filed in the town clerk's office, and shall forever preclude such owners of lands from all further claim for damages. In case the supervisors and the owners of land claiming damages cannot agree, or if the owner of any land through which any highway shall be laid out, altered or discontinued, is unknown, the supervisors shall, in their award of damages, specify the amount of damages awarded by them to all such owner or owners, giving a brief description of such parcel of land in their award; the supervisors shall assess the damages at what they deem just and right to each individual claimant with whom they cannot agree and deposit a statement of the amount of damages so assessed to each individual, with the town clerk, who shall note the time of filing the same. The supervisors in all cases of assessing damages shall estimate the advantages and benefits the new road or alteration of an old one will confer on the claimant for the same as well as the disadvantages. Any person living on United States land who has made his declaratory statement for the same in the proper land office, shall for all the purposes of this act be considered the owner of such land.

§ 43. WHEN DAMAGES NOT ALLOWED.] No damages shall be assessed or allowed under the provisions of this chapter to any person, persons or corporation, by the reason of laying out any new road or altering any old one, when the title of the land over which such road passes was vested in the territory or the United States at the time of the location of such road, excepting as otherwise provided in this chapter.

§ 44. SUPERVISORS DETERMINATION FINAL.] The determination of the supervisors of any town in refusing to lay out, alter or discontinue any highway shall be final (unless such determination shall be appealed from as provided in this act) for the term of one year after the filing of such order or determination in the town clerk's office; and no application for laying out, altering or dis-

continuing any such highway shall again be acted upon by such within said term of one year, and in case the determination of the supervisors of any town, in laying out, altering or discontinuing any highway, shall be appealed from, as provided in this chapter, and such determination shall be reversed on such appeal, the said supervisors shall not, within one year after the making of the determination reversed on such appeal, act again upon an application to lay out, alter or discontinue any such highway.

§ 45. NOTICE TO PARTY OWNING PREMISES.] Whenever the supervisors or commissioners have laid out any public road through any inclosed, cultivated or improved lands, in conformity with the provisions of this chapter, and their decision has not been appealed from, they shall give the owner or occupant of the land through which the road is laid, twenty days' notice in writing to remove his fences; if such owner does not remove his fences within twenty days the supervisors shall cause such fences to be removed and direct the road to be opened and worked;

Provided, That no inclosure shall be ordered open between the first day of April and the first day of October.

VI.—TOWN LINE ROAD.

§ 46. OF ROAD BETWEEN TOWNS.] Whenever the supervisors of any town receive a petition praying for the location of a new road, or the altering or discontinuing of an old one, on the line between two towns, such road shall be laid out, altered or discontinued by two or more of the supervisors of each of said towns, either on such line or as near thereto as the convenience of the ground will admit, and they may so vary the same to one side or the other of such line as they think proper.

§ 47. ROAD DISTRICTS ON TOWN LINE ROAD.] The supervisors, when there may be such highways, shall divide such highway into two or more road districts, in such manner that the labor and expense of opening, working and keeping in repair such highways through each of said districts may be equal, as near as may be, and shall allot an equal number of such districts to each of said towns.

§ 48. DISTRICTS, WHERE BELONGING.] Each district shall be considered as belonging wholly to the town to which it may be allotted for the purpose of opening the road and keeping it in repair; and the supervisors shall cause such highway and the petition and the allotment thereof to be recorded in the office of the town clerk in each of said towns.

§ 49. TOWN LINE ROADS ALREADY LAID.] All roads heretofore laid out on the line between any two towns, shall be divided, allotted, recorded and kept in repair in the manner above directed.

§ 50. APPEAL.] The decision of the supervisors in relation to town-line roads may be appealed from in the same manner as provided for in this chapter for appeals from the decisions of supervisors in relation to town roads.

VII.—PUBLIC CARTWAYS.

§ 51. WIDTH OF ROADS AND CARTWAYS.] All public roads to be laid out by the supervisors or county commissioners shall not be less than four rods wide, and may be six rods in width when all residents of land adjoining said road shall petition for the same; and that when any road or portion thereof shall have been used and kept in repair and worked for twenty years continuously as a public highway, the same shall be deemed as having been dedicated to the public, and be and remain until lawfully vacated a public highway, whether the same has ever been laid out as a public highway or not. That the supervisors of the several towns have power to lay out public cartways two rods wide when petitioned by five residents, freeholders of said town, desiring the same. The cost of surveying and locating such cartways shall be paid by the town as provided by law in the laying out of public roads, and the damages to lands through or upon which cartways may be laid out shall be paid by the town. And the damages in this section mentioned shall be assessed and an appeal had, in the same manner as in the case of other public roads, and the town clerk shall record any cartways so laid out in the same manner and with like effect as other roads are required to be recorded by him;

Provided, however, That when the petitioners or any of them propose in the petition their willingness to dedicate any land to which such petitioner has title for the purposes of such cartway, such lands shall be deemed as so dedicated, and no damages shall be assessed therefor; that such cartway when so laid out and established shall be deemed a public cartway for public use.

§ 52. LABOR ON CARTWAYS.] The town supervisors of this Territory of their respective towns may in their discretion allow any owner or owners of cartways duly and legally established, or hereafter to be laid out by proper authority, to perform his or their highway labor and poll tax, or either, upon said cartway or cartways. And said supervisors in their discretion in all cases where any such cartway exceeds one mile in length, may expend upon such cartway any highway labor, poll tax, road tax, road or bridge money, the same as upon any highway in said town.

VIII.—ROADS IN CITIES.

§ 53. POWERS OF CITY AUTHORITIES.] The same powers and duties in and by this chapter conferred and imposed upon town

supervisors, are also conferred and imposed upon the city councils of the several cities throughout this Territory, and in addition it shall be the duty of the city council to appoint some qualified elector of each road district in the city to be overseer of roads for such district, and the overseers of roads, city clerks, justices of the peace and the constables of the several cities of this Territory shall exercise the same powers and perform the same duties, and be subject to the same liabilities as are in and by this chapter conferred and imposed upon the town overseers of roads, clerks, town justices of the peace and town constables, and all the provisions of this chapter shall be applicable to the several cities in this Territory, unless otherwise provided for in their several charters, subject, however, to the reservation made in the succeeding section in regard to incorporated cities.

IX.—COUNTY ROADS.

§ 54. PROCEEDINGS FOR COUNTY ROADS.] If twenty-four freeholders of any county containing one hundred or more legal voters, and twelve freeholders of any county containing less than one hundred legal voters, petition the board of commissioners of such county for the location, establishment, change or vacation of any highway running into more than one town of said county, and not within the limits of any incorporated city, whether such highway is connected or to be connected with other roads or not, setting forth in such petition the beginning, course and termination of the highway proposed to be located, established, changed or vacated, together with the names of the owners of the lands, if known, through which the same may pass, the auditor or county clerk of such county shall lay such petition before the board of county commissioners at their next session thereafter.

§ 55. DUTY OF COMMISSIONERS.] When the board of county commissioners to whom such petition is presented are satisfied that at least thirty days' notice has been given, before the session of said board at which such petition is to be heard, by posting up notices in three public places in each of the towns through which such highway is proposed to be located, changed or vacated, the board of commissioners shall appoint from the members thereof a committee to examine such proposed location, establishment, change or vacation, and the board, if necessary, shall designate a time when and a place where such committee will meet upon such route.

§ 56. EXAMINATION OF PROPOSED ROAD.] At the time and place designated such committee shall meet and proceed to examine the highway proposed to be located, changed or vacated, and in such examination may employ a competent surveyor.

§ 57. REPORT OF COMMITTEE.] After such committee have completed their examination they shall make a report of their proceedings, setting forth the highway proposed to be located, established, changed or vacated, by course and distance, and recommending therein according to the opinion of the majority, either that the prayers of the petitioners be granted or rejected, a copy of which report shall be returned to the board of commissioners at their next session thereafter.

§ 58. DUTY OF COMMISSIONERS ON REPORT.] At the next meeting of the board of commissioners they shall proceed to determine the prayer of such petition, and such board shall declare it granted if a majority of the board so agree, and shall direct the auditor or county clerk to notify the supervisors of the several towns in which such road is to be located or established, or change or vacation is made, when such supervisors will cause to be opened so much of such highway as lies in their respective towns ;

Provided, That all damages sustained by reason of laying out or altering any county road shall be assessed by the county commissioners laying out such road, and paid by the county.

§ 59. REMONSTRANCE—DAMAGES.] If at the session of the board of commissioners at which the report of the road committee appointed to examine such highway is presented any person over whose land such road passes shall remonstrate against granting the prayer of the petition, setting forth in writing that he is damaged in a sum mentioned by the location, change or vacation of such highway, to the truth of which he takes and subscribes an oath, such board shall determine from the face of the report and the evidence before them, the amount of damages sustained, and whether the damages so assessed are greater than the utility of the proposed highway or change, and if they deem the road of sufficient advantage to the county to warrant the paying of the damages assessed by the board they shall declare such highway located, changed or vacated, and all damages declared assessed shall be paid by the county interested ; but if they shall determine that the damages assessed are greater than the advantages of the proposed location or change, they shall order the petition dismissed.

§ 60. COUNTY OR TERRITORIAL ROAD DEFINED.] Every road located by territorial or county authority is a county road, and shall only be changed or vacated by an order of the county commissioners, as provided for in this chapter. All damages claimed in the location of any Territorial road through any of the organized counties of this Territory, shall be determined by the provisions of this chapter the same as in the location of a county road, and the organized counties through which any Territorial road is located shall be liable for such damages.

§ 61. ROAD TAXES—MAXIMUM.] The county commissioners have general supervision of county roads, and have power to appropriate such sums of money from the county treasury as they think advisable, for opening, vacating, re-surveying or otherwise improving such roads, not exceeding in any one year the sum or ratio of \$1,000 to each \$500,000 of assessed valuation of real estate in such county;

Provided, That additional sums may be appropriated, but shall not be expended except upon ratification thereof by a vote of the people, to assist in building bridges and opening and repairing county roads, to be expended under their direction;

Provided, further, That the towns through which any county road may pass, shall keep such road in repair, the same as other roads in their towns.

§ 62. SIDE ROADS AND FORDS.] The board of county commissioners of each county in this Territory shall have power and authority to lay out and establish side roads and ford crossings, near or adjacent to any bridge forming part of any county or town road over any stream of water in their county; said side road on each side of said stream of water to intersect with the adjacent road at the nearest practicable point. In the laying out and establishing such side road and ford crossings the same proceeding shall be had in all respects, including the assessment and payment of damages, as are required by law in laying out and establishing county roads;

Provided, That this act shall not authorize the laying out and establishing side roads or ford crossings near or adjacent to any bridge, the cost of which was less than one thousand dollars.

§ 63. DAMAGES.] The county commissioners in cases of county roads, and the town supervisors in cases of town roads, may assess and allow damages on application in cases where roads have been previously laid out and no damages have been assessed or allowed or release given, if they consider such assessment just and right;

Provided, however, That no damages shall be allowed or paid unless application for such damages shall have been made within three years from the date of the laying of such roads.

X.—JUDICIAL DISTRICT ROADS.

§ 64. JUDGES TO APPOINT VIEWERS.] Whenever a petition praying that a road be laid through two or more counties in any judicial district in this Territory, signed by twenty legal voters, resident in said counties, shall be presented to the judge of the district court, the said judge is hereby authorized to appoint three commissioners, whose duty it shall be to meet at such times and places as may be necessary, and to immediately proceed to lay

out a road as directed by the judge, in accordance with the prayer of the petition ;

Provided, That no road shall be ordered by any judge to extend more than six miles outside the judicial district in which the application is made, and such road shall be extended beyond the district only for the purpose of commencing or ending at some village or public road.

§ 65. POSTING NOTICE.] Notices of the presentation of any such petition as that mentioned in the preceding section, to any district judge, shall be posted at least thirty days prior to such presentation, in at least three of the most public places in said judicial district, and there shall be one of said notices posted at each county seat of the counties through which the road prayed for is to pass.

§ 66. ASSISTANCE IN LAYING OUT ROAD.] The commissioners shall appoint a surveyor, one axeman and two chainmen to make a survey of such a road. The compensation of the commissioners shall be three dollars each per day, and that of surveyor shall be four dollars per day, and the axemen and chainmen shall each receive two dollars per day, such compensation to be paid only for the time the parties are actually engaged in making such survey. The damages incurred and the compensation to be paid to the persons over whose land such road shall be laid out, by reason of the laying out of the same, shall be assessed and determined by said commissioners, and the expense of such survey and the damages and compensation to be paid for right of way, shall be paid by the counties through which said road is laid, without regard to the length located in each county, each county paying therefor its just proportion, and such proportion shall be entirely in the discretion of the court, and shall be by said court determined, regard being had to the benefits to be derived from said road by the different counties through or into which it shall pass. Stakes shall be placed at the starting point which shall be on said public road, and at each of the angles of the road. Witness trees shall be marked wherever stakes are placed ;

Provided, That where there are no trees, monuments shall be erected.

§ 67. SURVEYOR TO MAKE PLATS.] The surveyor shall follow the lines of the United States surveys where practicable, and shall make two or more plats of the location of such road, in which the county lines and all stakes, trees and monuments, together with the distances, shall be written, and said surveyor shall forward one of such plats to the register of deeds of each county through which said road is located, and such plats shall be placed on file by such registers of deeds, and be part of the records of their

office. The surveyor shall receive two dollars for each plat so made and forwarded by him as aforesaid.

§ 68. REPORT TO DISTRICT COURT.] The commissioners appointed as herein provided shall make a report of all proceedings had by them under this act to the term of the District Court held in the county next after the completion of their duties, and any person feeling aggrieved may appear and be heard thereat. The confirmation of the report of the commissioners by the judge of the district court shall in all cases be final.

XI.—ROAD APPEALS.

§ 69. APPEALS.] Any person who shall feel himself aggrieved by any determination or award of damages made by the supervisors of any town or towns, or by the commissioners of any county, either in laying out, altering or discontinuing, or in refusing to lay out, alter or discontinue any highway, or cartway, may, within thirty days after the filing of such determination or award of damages, as provided in this act, appeal therefrom to a justice of the peace of the county for a jury to hear and determine such appeal:

Provided, The amount of damages allowed in such appeal does not exceed \$100.

§ 70. BOND, INSURANCE, ETC.] Every application to a justice of the peace for an appeal shall be in writing, and shall briefly state the grounds on which it is made, and whether it is brought in relation to damages assessed, or in relation to laying out, altering or discontinuing, or refusal to lay out, alter or discontinue any highway, or whether it is brought to reverse entirely the decisions of the supervisors or commissioners, or any part thereof—if the latter, what part. Upon filing such application and a bond executed to the supervisors of the town, or the commissioners of the county, with sufficient sureties, to be approved by the justice, conditioned to pay all costs arising from such appeal, provided that the determination of the supervisors or the county commissioners (as the case may be) shall be sustained, such justice shall issue a summons specifying therein a time and place for the hearing of such appeal, which summons shall be served on one or more of the supervisors (or commissioners, if a county road) at least six days before such time, and at the time and place so appointed, the justice shall proceed as in other cases of trial by jury. If upon the trial it is deemed necessary by the jury, or either party in the action, that a personal examination by the jury of the road in controversy is necessary, the justice may on motion of the jury or either party in the action, direct the jury to view and examine the highway described in the application, and consider the determination of the supervisors or commissioners in laying

out, altering or discontinuing, or refusing to lay out, alter or discontinue the same, and to make return to him in writing within ten days.

§ 71. FILING RETURN, COSTS, ETC.] The justice shall file the the return of the jury in the office of the town clerk, if the appeal was taken from the decision of the board of supervisors of the town, and in the office of the county auditor if the appeal was taken from the decision of the county commissioners; and if the determination of the supervisors or commissioners shall be affirmed by the jury, the party appealing shall pay all costs, but if such determination shall be reversed or altered, or a greater amount of damages awarded, then the costs in the case shall be a charge against the town or county, as the case may be.

§ 72. WHEN APPEAL TO BE TAKEN TO DISTRICT COURT.] In case the amount of damages claimed exceed one hundred dollars, appeal may be taken within thirty days to the District Court of the county in which said damages are sustained, by filing in the office of the clerk of such court a bond, to be approved by the judge of such district court, or the court commissioner, or the county auditor of the county, of the same nature, as provided in the two preceding sections of this chapter, and by the service of a written or printed notice of such appeal upon the chairman of the board of supervisors or county commissioners, as the case may be, signed by the party making the appeal, or his attorney. Such appeal shall bring before the appellate court the propriety of the amount of damages, and all matters referred to in such notice of appeal. Unless the parties otherwise agree the matter shall be submitted to a jury and tried as other appeal cases are tried, and the court or jury, as the case may be, shall re-assess the damages aforesaid, and make the verdict conform to the justice and facts in the case; but the rule for ascertaining and fixing such judgment shall be based upon the same principles as the supervisors or commissioners were required to adopt in originally determining the same, and upon judgment being rendered the clerk of said court shall serve a certified transcript of such judgment upon the chairman on whom the notice of appeal was served as aforesaid. If the determination of the board of supervisors or commissioners appealed from be affirmed, or if the amount of damages allowed be reduced in said District Court, the party appealing shall pay all costs and disbursements incurred in said court, but if the amount of damages allowed be increased, or if such determination shall be altered, modified or reversed in said District Court, otherwise than as to the amount of damages, said costs and disbursements shall be paid by the town or county, as the case may be, said costs and disbursements to be taxed and adjusted as in other cases in said District Court, and judgment entered therefor in like manner.

§ 73. WHEN APPEAL SUSTAINED, DUTY OF BOARD.] When an appeal shall have been made from the determination of any board of supervisors or county commissioners, and such determination shall have been reversed or altered, the supervisors or commissioners from whose determination such appeal was taken shall proceed to lay out, alter or discontinue such highway, in conformity with the decision of such appeal, and the proceedings thereon shall be the same as if they had originally so determined to lay out, alter or discontinue such highway. The amount of damages finally determined and awarded, whether by the supervisors, or by the court and jury, together with all the charges of officers and other persons necessarily employed in laying out, altering or discontinuing any town road, shall be audited by the supervisors, specifying the amount of damages and charges due each individual, and the respective amount shall be certified to by the said supervisors and by them deposited with the town clerk and paid by the town. Before any road shall be opened or used, an amount of town orders, equal to the damages assessed to each individual, shall be duly issued and deposited with said town clerk for the use and benefit of said individual, and shall be delivered to him upon demand. The issuing and depositing of said orders shall be deemed to be sufficient security for the payment of said damages. In no case shall a town be compelled to pay any damages that may be awarded in laying out and altering or discontinuing any county road.

XII.—OBSTRUCTING HIGHWAYS.

§ 74. PENALTY FOR OBSTRUCTING HIGHWAYS.] Whoever at any time obstructs any of the public highways in this Territory in any manner with intent to prevent the free use thereof by the public, or whoever shall do, or cause to be done, any planting or plowing thereon within the width of one full rod on each side of the center line of said highway, shall be subject to a fine of not less than five nor more than twenty-five dollars, together with the costs attending such conviction, and on failure to pay such fine and cost, may be committed to the county jail, there to remain until such fine and costs are paid, or until discharged according to law; and it is hereby made the duty of the board of supervisors of the several towns in this Territory to make complaint and prosecute in their official capacity all violations of the provisions of this section.

§ 75. JURISDICTION OF JUSTICES.] Justices of the peace shall have jurisdiction, on complaint made on oath, to hear and determine all cases arising under the preceding section.

§ 76. FINES, HOW DISPOSED OF.] All fines recovered under the provisions of this chapter shall be paid into the treasury of the

town wherein the offense was committed to be used in repairing the public highways within such town.

XIV.—BRIDGE PENALTIES.

§ 77. NOTICES ON BRIDGES.] It shall be the duty of the county commissioners of each and every county in this Territory to cause notices to be posted at both ends of all bridges in their respective counties, where the span of such bridge shall be fifty feet or more, stating the number of cattle, horses or other animals that may be driven on to or across said bridge at any one time.

§ 78. DRIVING CATTLE ON BRIDGES.] Any person or persons driving or having charge of any drove of cattle, horses or other animals, who shall drive or permit more of said animals to enter upon or cross said bridge at one time than is specified in said notices provided for in section two, (86) [77] of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court having jurisdiction, shall be fined in any sum not exceeding one hundred dollars nor less than ten dollars.

§ 79. PENALTY FOR DRIVING ACROSS BRIDGE FASTER THAN A WALK.] Whoever drives or rides upon any bridges belonging to any incorporated bridge company, or upon any bridge which has been or may be erected by any county or town, or upon any bridge which has been or may be erected by any individual, and upon which the notice hereinafter prescribed is conspicuously displayed, faster than a walk, shall forfeit and pay for the use and benefit of the county wherein such bridge is located, in whole or in part, as a penalty therefor, the sum of not less than five nor more than ten dollars for each and every such offense.

§ 80. PROCEEDINGS ON COMPLAINT.] Upon complaint made to any justice of the peace in any county where such bridge is located in whole or in part, that any such offense has been committed, the said justice shall issue his warrant reciting the substance of the complaint, requiring the officer to whom it is directed forthwith to arrest the accused and bring him before such justice, or some other justice of the same county, to be dealt with according to law. If the name of the person committing the offense is not known to the complainant or the justice, the complainant may give the justice such description as may enable the person accused to be identified, and the warrant shall recite such description and shall justify the officer to whom it is directed in arresting the person prescribed and bringing him before the justice.

§ 81. UPON CONVICTION, JUDGMENT.] In all cases of conviction under the provisions aforesaid the justice shall enter judgment for the fine and costs against the defendant, and may commit him until the judgment is satisfied, or issue execution upon the judgment to the use of the county.

§ 82. FINE IMPOSED ONLY WHEN NOTICE POSTED.] No fine shall be imposed under the provisions aforesaid, unless there was at each end of said bridge, at the time when such offense was committed, a conspicuous signboard upon which was printed the following words and figures: Ten dollars fine for riding or driving on this bridge faster than a walk.

§ 83. PENALTY FOR RUNNING TOLL GATE.] When any bridge or ferry company, or individual is authorized by law to collect toll for the crossing of any bridge or ferry belonging to such company or individual, any person who willfully runs the toll gate of such company or individual and passes over such bridge or ferry with the intention of avoiding the payment of the toll prescribed by law, or who refuses to pay such toll when thereto lawfully requested, shall forfeit and pay, for the use and benefit of the county wherein such bridge or ferry is located, a fine of five dollars for each and every such offense, which fine shall be prosecuted and collected, together with the costs, in the same manner as the penalties prescribed in the preceding section.

XV.—WATERING PLACES ON HIGHWAYS.

§ 84. WATERING TROUGH BOUNTY.] Any person in any city, town or township in this Territory, who shall construct and maintain and keep in repair a watering trough beside the highway, which shall be above the ground and made easily accessible for horses and carriages, shall be allowed by the city, town or township, five dollars out of his highway tax for each year during which he shall furnish the same.

§ 85. WELL OR SPRING EXEMPTION.] Any person in any city, town or township who shall construct and maintain and keep in repair a good well or spring beside the highway, and easily accessible, and provide it with a suitable pail or bucket, and keep the same so supplied and in good repair, shall be allowed by the city, town or township, three dollars out of his highway tax for each year during which he shall furnish the same.

§ 86. PROCEEDINGS TO FURNISH WATERING PLACE.] Any person upon any highway or road, in any district or ward, wishing to furnish such watering trough, well or spring, shall make application to the alderman of the city, or supervisors of the town, who shall decide where such trough, well or spring shall be located, and the number that shall receive the benefits of this act.

XVI.—DITCHES FOR DRAINING HIGHWAYS.

§ 87. PROCEEDINGS FOR DRAINING OR DITCHING.] Whenever any overseer of highways shall file with the chairman of the board of supervisors of the town in which his road district is

located, his affidavit stating that a certain road passing through or into the district of which he is overseer, runs into or through swamp, bog or meadow or other low land, and that it is necessary or expedient that a ditch or ditches should be opened through land belonging to any person, stating the probable length of such ditch or ditches, and the width and depth of the same as near as possible, the point at which it is to commence, its general course, and the point near which it is to terminate, and the names of persons owning the land, if known, and a description of the land over which said ditch or ditches must pass, and that the road at that point cannot be made passable without extraordinary expense unless such ditch or ditches are laid out and opened; thereupon it shall be the duty of the chairman of the board of supervisors immediately to make out a notice and fix therein a time not less than six nor more than sixty days from the date thereof [when] the board of supervisors will meet at the place described in said affidavit, and personally examine the premises; which notice, together with the affidavit, he shall cause to be filed in the office of the town clerk, and the clerk shall make true copies of said notice and deliver them to the overseer of highways making the affidavit, whose duty it shall be to personally serve the same upon each of the owners of the land, if residents of the county, or upon the occupants of the land if the owners are residents of the county through which it is proposed to open such ditch or ditches, which notice may be in the following form:

Territory of Dakota, County of Mr.....
 Notice is hereby given, that, whereas it appears by the affidavit of overseer of road district No..... in the town of....., that the road running from..... to..... runs into or passes through a swamp, bog, pond or low land, which swamp, bog, pond or low land is situated on section...., in said town, and that it is the opinion of said overseer, that a ditch or ditches should be opened through land belonging to....., for the purpose of draining said swamp; therefore, you are hereby notified that the board of town supervisors will, on the..... day of....., A. D. 18.., personally examine the premises over which said ditch or ditches are to pass, and decide upon said application, and will also hear any objections which may be made in the matter, and will consider the amount of damages which, in their opinion, will be just compensation to the owners of land in consequence of the opening of such ditch or ditches.

Signed..... chairman of the board of supervisors.

....., clerk of town of.....”

Provided, That such ditch or ditches shall be laid out upon the lines that the owner or owners of the land over which they are to pass may desire whenever it can so be done without extra cost.

§ 88. NOTICE, AND PUBLICATION.] The overseer serving such notice shall make return thereon to the town clerk, stating the facts, and if it shall appear from the returns of the overseer that the owners of said lands do not reside in the county, and that no occupant resides thereon, the town clerk shall order the publication of the notice for three successive weeks in a newspaper printed and published in said county, or if there be no paper printed and published in said county, then he shall post or cause to be posted up the notice in three of the most public places in the county, for three weeks prior to the meeting of the supervisors, and such publication shall be considered as sufficient notice to all parties.

§ 89. SUPERVISORS TO EXAMINE.] At the time specified in the notice the supervisors shall proceed to examine the road and premises over which such ditch must pass, and hear any reasons for or against laying out the same, and shall decide upon the application as they deem proper, and shall assess the amount of damages which in their judgment will be an equitable compensation to the owners of the land for the opening of said ditch or ditches through their land, and in all cases they shall estimate the advantage and benefits the laying out and opening of such ditch or ditches will confer upon the owner of any land through which such ditch may run, as well as the disadvantages;

Provided, The damages sustained by reason of laying out and opening such ditch or ditches may be ascertained by the agreement of the owners and the supervisors, in which case every agreement and release shall be in writing, and filed in the town clerk's office, and shall forever preclude such owners of lands from all further claims for damages. If, after taking all the circumstances into consideration, the supervisors shall be satisfied that the opening of such ditch or ditches is necessary or advantageous to the public interest, they shall cause the same to be laid out and opened, and shall give such directions in the matter as shall be necessary for the effectual draining of said swamp, pond, bog or low land, and shall file a statement in writing of all their doings, including the amount of damages allowed, in the office of the town clerk, who shall copy the same into a book to be kept by him especially for that purpose; and if the order and proceedings be not appealed from within ten days from the filing thereof as hereafter provided for, then said judgment, order and findings shall be final, and the overseer may proceed to open the ditch or ditches, in accordance with the directions and under the instructions of the said board of supervisors.

§ 90. APPEALS.] Any party through whose land said ditch shall pass may appeal from the decision of the supervisors to the district court of the county in which the premises are situated, by

filing with the town clerk within ten days after the decision of the supervisors shall have been made and filed, a recognizance of the appellant with sureties to be approved by the said board or chairman in a sum not less than one hundred dollars, conditioned that the appellant will appear at the next term of the district court, and prosecute his suit to final judgment, if the court shall not otherwise order for good cause; and further, that he will abide the decision of the court, and pay all costs and damages that may be assessed against him therein; or, if the appeal shall be dismissed or discontinued, that he will pay the costs of appeal. The proceedings of the district in the appeal shall be the same as an appeal in civil action from a justice of the peace, as nearly as practicable, and costs shall be awarded for or against either party in the same manner as upon an appeal in civil actions.

§ 91. KEEPING DRAINS IN REPAIR.] At any time after such ditch or ditches shall have been opened, it shall be lawful for the overseer of highways of the road district, from time to time as it may become necessary, to enter upon the lands through which such ditch or ditches have been opened, for the purposes of clearing out and scouring the same, and then and there to clear and scour the same in such manner as to keep them open and in good order and condition.

§ 92. PENALTY FOR INJURING DITCH.] Any person who shall dam up, obstruct or in any way injure any ditch or ditches as opened, shall be liable to pay to the overseer of highways of such road district double the damages which shall be assessed by the jury or court trying the case for such injury, and shall further be deemed to have committed a misdemeanor, and shall upon conviction thereof be punished by imprisonment of not more than three months, or by fine of not more than one hundred dollars, and such sums of damages and fines shall be by such overseer expended on the roads in his district.

§ 93. PAYMENT OF DAMAGES.] When the amount of damages or compensation to be paid to any one or more of the owners of land taken for such or ditches shall have been finally determined by proceedings under the provisions of this act, the board of town supervisors shall provide for the payment of and pay the same in the manner provided by law for the payment of like damages or compensation for land taken for a public highway, and may in their discretion deduct the amount so paid from money belonging to or to be paid over to the road district in which such ditch or ditches shall have been constructed.

XVII.—SEEDING DOWN HIGHWAYS.

§ 94. SEEDING HIGHWAYS TO GRASS.] Any person living upon or owning land fronting on any of the public highways of this

Territory, may, for the purpose of seeding the same down to grass, plow and level the said highways for said purpose, and seed the same to grass to within eight feet of the center of the same ;

Provided, That nothing herein contained shall be construed to authorize the said parties to work upon the same to the hindrance or detriment of the travel upon said roads, or to authorize any compensation for the same.

XVIII.—ROADS ON LINES OF CITY OR VILLAGE.

§ 95. TOWN AND CITY LINE ROAD.] Whenever the supervisors of any town and the trustees or common council of any incorporated city or village shall receive a petition praying for the location of a road or for the altering or discontinuing of any road, on the line between such town and incorporated city or village, such road shall be laid out, altered or discontinued by two or more of the supervisors of such town and a majority of the common council or trustees of such incorporated city or village.

§ 96. APPEALS. The decision of such supervisors and common council or trustees in relation to such road, may be appealed from in the manner as provided in the laws of this Territory for appeals from the decisions of supervisors in relation to town roads.

§ 97. LAWS APPLICABLE.] The laws of this Territory which apply to a road on the line between two towns, shall be applicable to all roads on the line between any town and an incorporated city or village.

XIX.—RECORDING TERRITORIAL AND COUNTY ROADS.

§ 98. FIELD NOTES TO BE FURNISHED.] That upon the written request of the board of supervisors of any township in this Territory, the county auditor of the county wherein such township is situated shall furnish a copy of the description and field notes and plat (if any) of each Territorial, State and county road running into or through such township, as appears by the description, field notes and plat on file or of record in his office.

§ 99. RECORD OF FIELD NOTES.] Upon the filing of such copy in the town clerk's office, the town clerk shall record the same in the road record book of the township, and such record shall be *prima facie* evidence of the existence of such road according to the description and plat so on file.

§ 100. WHEN ACT TO TAKE EFFECT.] This act shall not take effect until January 1, 1884, and on and after that date townships organized and acting under present laws shall be wholly subject to the provisions of this act.

Approved, March 9, 1883.

CHAPTER 113.

ONE BALLOT FOR TOWNSHIP AND COUNTY OFFICERS.

AN ACT to Amend Section 7 of Chapter 59 of the Laws of 1879.

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

§ 1. ALL OFFICERS TO BE CHOSEN TO BE NAMED ON ONE BALLOT.] That section 7 of chapter 59 of the laws of 1879, is amended to read as follows :

The electors of each township shall have power at the annual or general election to elect such officers for the township as are by law required to be chosen, and shall be elected and named upon the same ballot as county, district and territorial officers at such election.

§ 2. That section 1 of chapter 130 of the laws of 1881 is hereby repealed.

§ 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. This act shall take effect immediately.

Approved, March 9, 1883.

Townsites.

CHAPTER 114.

DISPOSITION OF LOTS IN TOWNS ENTERED UNDER THE ACT OF CONGRESS OF 1867.

AN ACT to Amend Section 13 of Chapter 135 of the Laws of 1881, Entitled An Act Prescribing Rules and Regulations for the Execution of the Trust Arising Under the Act of Congress, Entitled An Act for the Relief of Inhabitants of Cities and Towns Upon the Public Lands, Approved, March 2, 1867, and Acts Amendatory thereto.

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

§ 1. REMAINING LOTS TO BE DEEDED TO BOARD OF EDUCATION.] That section thirteen of the session laws of 1881 be amended so as to read as follows :

1883.—36

When any lots or parcels of land within the limits of any city or town shall remain unclaimed after the expiration of the time allowed by this act for the filing of claimants, statements, it shall be the duty of the corporate authorities, or judge of the probate court, to convey the lots or parcels of land so remaining unclaimed by good and sufficient deed to the board of education of such city or town, if there be such body qualified to take the title to real property, to be taken and disposed of by such board of education for school purposes and for the exclusive use and benefit of the school district in which such city or town may be situated, under such directions and limitations as are provided by this act.

§ 2. WHO TO ACT IN ABSENCE OF PROBATE JUDGE.] If there be no such board of education legally authorized to take the title to real property, then the corporate authorities, or judge of the probate court, shall sell and dispose of the said unclaimed lots or parcels of land so remaining for school purposes, and for the exclusive use and benefit of the school district in which said city or town may be situated, under the directions, limitations and provisions contained in this act.

§ 3. APPRAISAL.] The board of education, corporate authorities or judge of the probate court aforesaid, shall appoint three competent and suitable freeholders of such city or town a board of appraisers, whose duty it shall be to make a careful inspection and examination of all the unclaimed lots or parcels of land aforesaid, and upon each of such lots or parcels of land they shall affix a reasonable and just valuation, and upon the completion of their appraisement they shall make and return a full and complete report of their proceedings and appraisement to the board of education, corporate authorities, or judge of the probate court, which said report shall contain a full schedule of each and every lot or parcel of land remaining unclaimed, giving an exact description of said lots by their numbers and the number of the block, and all parcels of land not so numbered shall be described by metes and boundaries and upon each lot or parcel of land separately, they shall designate the valuation thereof as fixed by their appraisement; said appraisement and report shall be subscribed and sworn to by at least two of said appraisers.

§ 4. PUBLIC SALE.] The board of education, corporate authorities, or judge of the probate court, shall, within thirty days after the receipt of the aforesaid report of said board of appraisers give public notice that all such unclaimed lots or parcels of land, or so much thereof as may be considered for the best interest of the school district, will be sold at public auction to the highest bidder for cash; said notice to be given by publication in not less than three newspapers of general circulation in the Territory, and for a period of not less than thirty days immediately prior to such sale,

specifying the time and place when said unclaimed lots or parcels of land will be sold, together with a description of the same as returned by the board of appraisers.

§ 5. BIDS—PRIVATE SALE.] At the time and place appointed in said notice, the board of education, corporate authorities, or judge of the probate court, shall offer for sale at public auction, subject to competitive bids, all the lots and parcels of land, or so much thereof as may be considered for the best interest of the school district, returned by the report of said board of appraisers as unclaimed:

Provided, That no bid shall be received, or lot or parcel of land sold for a less sum than the appraised valuation, and such sale shall continue open from day to day until all such lots or parcels of land, or so much thereof as may be considered for the best interest of the school district, shall have been offered for sale. Any lots or parcels of land remaining unsold at the close of such sale for want of bids equal to the appraised valuation thereof, may thereafter be sold at private sale by said board of education, corporate authorities or judge of probate court, for a sum of money not less than the appraised valuation thereof, and not otherwise.

§ 6. PURCHASER TO PAY FOR DEED.] Any purchaser at such sale in addition to the amount of purchase money paid for any lot, lots or parcel of land shall pay to the board of education, corporate authorities, or judge of probate court, the sum of two dollars as a fee for making, executing and acknowledging a deed of conveyance therefor; and all such lots or parcels of land purchased by any one person, may be conveyed to such purchaser in one deed, which fee shall be in full for all charges of conducting sale, giving notice, appointing appraisers, etc., etc.

§ 7. PROCEEDS, HOW APPLIED.] The proceeds derived from the sale of such lots or parcels of unclaimed land, after first paying the expenses of advertising, printing and a *per diem* of not more than three dollars per day to each member of the board of appraisers for the days actually and necessarily employed by them in making such appraisal, and report as aforesaid, and other expenses actually and necessarily incurred in the proper conduct and management of such sale, shall be immediately turned over at the close of said sale by the board of education, corporate authorities, or judge of the probate court, to the treasurer of the school district, and by said treasurer placed to the credit of the school house fund of said school district, only to be disbursed and applied in the payment of outstanding bonds, warrants or other indebtedness against said school district, contracted or created in the erection or construction of school houses, procuring grounds or appurtenances therewith, if any such bonds, warrants or other indebted-

ness exists, otherwise to be applied and placed to the credit of the general school fund of the school district.

§ 8. DISPOSITION OF SURPLUS.] In case there should be found any surplus on hand, over and above receipts for fees and awards for expenses arising from the conveyances of lots, as provided in section ten of the act, of which this act is amendatory, then such surplus shall so soon as ascertained by the corporate authorities, or judge of the probate court, be accounted for and turned over to the treasurer of the school district, wherein such city or town may be situated, to be by such school district treasurer placed to the credit of the school house fund, then to be disbursed and applied as herein provided for the disbursement of proceeds derived from the sale of unclaimed lots or parcels of land.

§ 9. That all acts and parts of acts in conflict with the provisions of this act be and the same are hereby repealed.

§ 10. This act to take effect from and after its passage and approval.

Approved, February 8, 1883.

Trespass of Animals.

CHAPTER 115.

AN ACT to Amend Section 747, Chapter 38 of the Code of Civil Procedure Entitled "Herd Law."

Be it Enacted by the Legislative Assembly of the Territory of Dakota, as follows:

§ 1. LIABILITY FOR TRESPASS.] That section 737 [747] chapter 38 of the Code of Civil Procedure, entitled "Herd Law," be, and the same is hereby amended to read as follows:

§ 743. [747] LIABILITY FOR TRESPASS OF ANIMALS.] Any person owning or having in his or their charge, or possession, any horses, mules, cattle, goats, sheep or swine, or any such animals, which shall trespass upon the lands of another, or upon lands either fenced or not fenced, belonging to any person or persons other than the owner or owners of such animals, such person or

persons owning or having in charge or possession such trespassing animal or animals, shall be liable to any party or parties sustaining such injury for all damages he, she or they may have sustained by reason of such trespassing aforesaid, to be recovered in a civil action before any court having jurisdiction thereof, in the county where such damage may have occurred, and the proceedings shall be the same in all respects as in other civil actions, except as herein modified ;

Provided, That no property shall be exempt, except those exemptions made absolute from seizure and sale under executions issued upon judgment obtained under or by virtue of this chapter ; and

Provided, further, That the party or parties claiming damages under the provisions of this chapter shall bring action in proper court to recover the same within sixty days after the infliction of such damages.

§ 2. All acts or parts of acts contravening the provisions of this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 9, 1883.

Wheat.

CHAPTER 116.

AN ACT Regulating the Grading and Weighing of Wheat and for other purposes in the Territory of Dakota.

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

§ 1. LEGAL STANDARD FOR MEASURING.] There is hereby created a lawful standard for determining the grade of wheat in this Territory, which shall be the legal half bushel measure, and measured bushel by the same when weighed shall fix the grade of wheat in the number of pounds constituting the general grade of wheat as may be from time to time fixed or established by the Board of Grain Inspectors of this Territory as hereinafter provided and the several grades of wheat fixed and established under the

provisions of this act shall be a legal tender in payment or in fulfilling any contract stipulating to pay or deliver a like grade of wheat in this Territory.

§ 2. PENALTY FOR FALSE MEASUREMENT.] Any person, association or corporation or any representative thereof who shall knowingly cheat or falsely weigh any wheat or other agricultural product, or in the weight of the grade of wheat as prescribed and in force under the provisions of this act, shall be deemed guilty of a misdemeanor and on conviction thereof before any court of competent jurisdiction, shall be punished by a fine not less than fifty (0) dollars nor more than one hundred (100) dollars for each offense and the costs of prosecution or by imprisonment in the county jail not less than thirty days nor more than sixty days or both.

§ 3. DUTY OF THE BOARD OF INSPECTORS.] It shall be the duty of the Board of Grain Inspectors of the Territory to designate what shall be the means of filling the measure to be used under the provisions of this act in testing the grade of wheat, and to prescribe such methods as shall secure uniformity in determining the grades of wheat, and they shall require that all measures used and means of weighing employed in grading wheat to be sealed and stamped by them, or by the lawful sealer of weights and measures. Said Board of Grain Inspectors shall fix and designate the several grades of wheat to be in force each year after their annual meeting and cause to be published a circular for the use of grain dealers in the Territory, defining the rules and regulations to be observed in the grades of wheat and testing the same and naming such methods and devices therein to be used in the manner of filling the half bushel.

§ 4. DISTRICT ATTORNEY TO PROSECUTE.] It shall be the duty of the district attorney in each and every county in this Territory whenever it shall come to his knowledge by the affidavit of the party complaining or otherwise, or any other attorney as the complaining party that any person, association or corporation has violated in said county any of the provisions of this act to commence proceedings within ten days after receiving such affidavit or other information against the party so offending in the name of the Territory of Dakota, and all the costs of such prosecution shall be paid out of the funds of said Territory. That if for any reason the district attorney cannot immediately attend to any case brought before him as provided for in this section, the complaining party may employ any other attorney to prosecute the case; *Provided, however,* That the complainant bear all the expense of the prosecution.

§ 5. FINES HOW DISPOSED OF.] All fines recovered under this

act shall be paid into the Territorial treasury and applied to the general fund of the Territory.

§ 6. GOVERNOR TO APPOINT BOARD.] It is hereby made the duty of the Governor by and with the advice of the Territorial Council to appoint three men in this Territory who are well skilled in agriculture, and who are not directly or indirectly interested in the business of buying and selling wheat; and it shall be the duty of said persons so appointed to have and exercise the powers conferred upon said Board of Grain Inspectors, and to carry out the provisions of this act as herein prescribed, for the term of two years and until their successors are appointed and qualified.

§ 7. COMPENSATION OF BOARD.] The Board of Grain Inspectors shall each receive the sum of five dollars per day for the time actually employed in the discharge of said duties and mileage of five cents per mile for the distance actually traveled in the discharge of said duties;

Provided, That no more than sixty days in any one year shall be allowed said commissioners for the transaction of their duties under this act.

§ 8. INSPECTORS' ACCOUNTS.] It is hereby made the duty of each member of said Board of Inspectors to render their sworn accounts for services and mileage to the chairman of said Board of Inspectors on or before the fifteenth day of each month for services performed by them during the preceding month, and it shall be the duty of said chairman to examine and if found correct to approve said accounts and forward the same, together with his own sworn accounts to the Territorial Auditor, to be audited by him.

§ 9. POWER OF INSPECTORS.] The said Board of Grain Inspectors shall have the power, at any time they deem necessary, to inspect any elevators, grain houses or warehouses, and in case of refusal of warehousemen or agents of elevators to allow said Inspectors to inspect their said elevators, grain houses or warehouses, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not exceeding five hundred dollars and by imprisonment in the county jail not more than ninety days or less than sixty days or both such fine and imprisonment.

§ 10. GRAIN IN ELEVATORS TAXABLE.] All elevators, warehouses or grain houses and all machinery and fixtures therein, together with all grain in store and not in transit situated upon the line or right of way of any railroad corporation of this Territory, shall be taken and deemed for all purposes of assessment and taxation personal property, and the same shall be assessed as provided by law for the assessment of personal property.

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

Approved, March 9, 1883.

SPECIAL LAWS.

County Auditor.

CHAPTER 1.

AN ACT Creating the Office of County Auditor in Certain Counties, and Defining the Duties thereof.

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

§ 1. AUDITOR TO BE ELECTED.] There shall be elected in the counties of Pembina, Walsh, Grand Forks, Lincoln, Traill, Cass, and Richland, a county auditor, who shall hold his office for two years from the first Monday in March succeeding his election and until his successor is elected and qualified, and shall keep his office at the county seat.

§ 2. BOND AND OATH.] Each county auditor previous to entering upon the duties of his office shall give bond to the people of the Territory of Dakota, with two or more sureties, to be approved by the board of county commissioners, in such penal sum not less than two thousand dollars nor more than twenty thousand dollars, as the said commissioners require, conditioned for the faithful performance of the duties of his office, and shall also take and subscribe the oath required by law, to be endorsed upon the said bond, which bond so endorsed shall be filed and recorded in the office of the register of deeds.

§ 3. PROCEEDINGS AGAINST COUNTY AUDITOR FOR MALFEASANCE IN OFFICE.] If any county auditor fails to make settlement, or pay over all moneys with which he stands charged at the time and in the manner prescribed by law, or misapplies any money which comes into his possession in the discharge of his official duties, the county commissioners shall commence an action against such

auditor and his sureties in the District Court of said county, or other court of competent jurisdiction, and he shall be proceeded against as now provided by law for proceeding against other county officers. In case of suspension, under the provisions of this section, such auditor, if restored to office, shall not be deprived of his salary during the time of suspension, and his reasonable expenses in defending himself upon such hearing shall be paid by the county. If upon the trial of such action such auditor is adjudged guilty of any neglect of duty, or offense charged, the office shall be deemed to be vacant.

§ 4. ACTIONS ON AUDITOR'S BOND.] An action may be brought against the county auditor and his sureties in the name of the Territory of Dakota, and for their use, or for the use of any county or person injured by the misconduct in office of the auditor, or by the omission of any duty required of him by law.

§ 5. EFFECT OF FAILURE TO QUALIFY.] If any person elected to the office of county auditor shall not give bond and take the oath aforesaid, on or before the first Monday of March next after his election it shall be deemed a refusal to serve.

§ 6. VACANCY, HOW FILLED.] When from any cause a vacancy happens in the office of county auditor the board of county commissioners shall appoint some suitable person to fill such vacancy, and the person so appointed shall give bond and take and subscribe the oath aforesaid, and shall hold his office until the next annual election and until his successor is elected and qualified.

§ 7. TEMPORARY DISABILITY PROVIDED FOR.] When any county auditor, having no deputy, is unable by reason of sickness or any other cause, to perform the duties of his office within the time specified by law for their performance, or when both the auditor and his deputy are so disabled by sickness or otherwise, the board of county commissioners shall appoint some suitable person to do and perform the duties of county auditor during such disability, and may require of the person so appointed such bond and security for the faithful discharge of the duties of the office as they deem expedient.

§ 8. WHO INELIGIBLE.] No county commissioner, county surveyor or county treasurer is eligible to the office of county auditor.

§ 9. MAY APPOINT DEPUTY.] County auditors are authorized to appoint deputy auditors by a certificate in writing, who shall, before entering upon the duties of their office, take and subscribe the oath required by law, which oath shall be endorsed on the certificate of appointment and filed in the office of the register of deeds; such deputies are authorized to sign all papers and do all other things which county auditors themselves may do. The county auditor shall be responsible for the acts of their deputies,

and may revoke their appointment at any time. They shall require bonds of their deputies in such amounts and with such sureties as they may deem proper.

§ 10. SHALL BE CLERK OF BOARD.] The county auditor shall, by virtue of his office, be clerk of the board of county commissioners of his county, and keep an accurate record of their official proceedings, and carefully preserve all the documents, books, records, maps and other papers required to be deposited or kept in his office, and prepare a financial statement of the county, annually, unless otherwise ordered by the board of county commissioners.

§ 11. SHALL DELIVER MONEY, BOOKS, PAPERS, ETC., TO SUCCESSORS.] On going out of office he shall deliver up to his successor in office all the moneys, books, records, maps, documents, papers, vouchers, and other property in his hands belonging to the county; and in case of the death of any county auditor, his personal representatives shall in like manner deliver up all such books, moneys, records, maps, documents and other property.

§ 12. SHALL KEEP AN ACCOUNT WITH TREASURER.] He shall keep an accurate account current with the treasurer of his county, and when any person shall deposit with the auditor any receipt given by the treasurer for money paid into the treasury, the auditor shall file such receipt in his office and charge the treasurer with the amount thereof.

§ 13. CLAIMS HOW ALLOWED—MONEY, HOW DISBURSED.] No claim against the county shall be paid otherwise than upon the allowance of the county commissioners, upon the warrant of the chairman of the board, attested by the county auditor, except it is authorized to be fixed by some other person or tribunal, in which case the sum shall be paid upon the warrant of the county auditor, upon the proper certificate of the person or tribunal allowing the same:

Provided, That no public money shall be disbursed by the county commissioners, or any of them, but the same shall be disbursed by *by* the county treasurer upon the warrant of the chairman of the board of county commissioners, attested by the county auditor, specifying the name of the party entitled to the same, on what account and upon whose allowance, if not fixed by law; and all such orders shall be progressively numbered, and the numbers, date and amount of each, and the name of the person to whom payable, and the purpose for which drawn, shall at the time of issuing the same be entered in a book to be kept by the auditor for the purpose.

§ 14. SALARY FOR AUDITORS—ALLOWANCE FOR CLERK HIRE.] The salary of the county auditor shall be regulated by the value of the property in their respective counties, as fixed by the Territorial board of equalization for the preceding year, as follows;

In counties where the amount of taxable property does not exceed the sum of one and one-half million dollars they shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars and one mill on each dollar of all amounts in excess of said last named sum, and less than two hundred thousand dollars, and one-tenth of one mill on each dollar on all amounts in excess of said last named sum. In counties where the value of taxable property for the preceding year as fixed by the said board of equalization, exceeds the sum of one and one-half million dollars, the county auditor shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars, and one-third of one mill on each dollar in excess of said sum and less than two million dollars, and one-fifth of one mill on each dollar of all sums in excess thereof. In all counties where the valuation of taxable property exceeds one million dollars the county auditor shall be allowed for clerk hire one-fifth of one mill on each dollar of such amount of *such amount* of taxable property not exceeding five million dollars and on all sums in excess of five million dollars one-twentieth of one mill on each dollar thereafter ;

Provided, That no county auditor shall receive more than fifteen hundred dollars for his personal services in counties where the valuation does not exceed four million dollars, nor more than two thousand dollars in counties where the valuation exceeds four million dollars, and does not exceed six million dollars, nor more than twenty-five hundred dollars in counties where such valuation exceeds eight million dollars and does not exceed ten million dollars, nor more than three thousand dollars where such valuation exceeds ten million dollars. And all moneys received as fees or percentage in excess of the amounts provided for in this act shall be paid by the Auditor at the end of each year into the revenue fund of the county, and

Provided, further, That in the county of Lincoln nothing shall be allowed said auditor for clerk hire.

§ 15. CLERK HIRE, HOW PAID.] The allowance for clerk hire in all cases shall be for actual services rendered, and shall be paid monthly to such clerk or clerks by the treasurer of the county, upon the order of the county auditor accompanied by his certificate that such services have been rendered ; and in no case shall the county auditor be allowed to receive clerk hire unless such services have been rendered.

§ 16. COUNTY CLERK CONSTRUED TO MEAN COUNTY AUDITOR.] Wherever the term county clerk occurs in any of the existing laws of the Territory of Dakota it shall be deemed and held synonymous with and construed to mean county auditor.

§ 18 [17.] CERTAIN OFFICERS TO MAKE APPOINTMENT.] For the purpose of carrying the provisions of this act into immediate effect, the chairman of the board of county commissioners, the judge of probate and register of deeds, in each of said counties are hereby authorized and it shall be the duty of such officers at a special meeting to be held therefor on the second Monday in April after the passage and approval of this act, to appoint a county auditor for their respective counties who shall qualify as in this act provided, and shall hold their office until the general or annual election in 1883, or until his successor shall be elected and qualified.

§ 19 [18.] REPEALED.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 20 [19.] This act shall take effect and be in force from and after its passage and approval.

Approved, March 9, 1883.

Fences.

CHAPTER 2.

FOR THE BLACK HILLS COUNTIES.

AN ACT to Amend An Act, Entitled "An Act to Establish a Fence Law in the Counties of Pennington, Custer, Lawrence, Mandan and Forsythe."

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

§ 1. WHAT SHALL BE DEEMED A LAWFUL FENCE.] That section one (1) of "An act to establish a fence law in the counties of Pennington, Custer, Lawrence, Mandan and Forsythe be amended so as to read as follows :

"Section 1. That in the counties of Pennington, Custer, Lawrence, Mandan and Forsythe, a fence constructed in the manner hereinafter described shall be a lawful fence :

First. By placing the ends of ordinary fence posts firmly in the ground at least twenty inches deep and not more than eight feet distant from each other and by firmly fastening thereto with nails or pins, good sound rails, poles or fencing boards at least six

inches wide and one inch thick, and four to each panel, the top rail, pole or board to be not less than four feet from the surface of the ground and the bottom rail, pole or board not more than fifteen inches from the surface of the ground, the other two rails, poles or boards firmly secured to each post so as to nearly equally divide the space between the top and bottom rails, poles or boards above provided for.

Second. By placing the ends of ordinary fence post, in the ground, at least twenty inches deep and not more than thirty-two feet distant from each other with a stay in the center at least two inches in diameter and by firmly fastening thereon by staples or boring through the posts, three strands of barbed wire of standard manufacture, the top strand of wire to be not less than four feet from the surface of the ground and the bottom strand of wire not more than fifteen inches from the surface of the ground and the other or third strand firmly stretched and secured to each post so as to nearly equally divide the space between the top and bottom strands as aforesaid.

§ 2. All acts and parts of acts conflicting with this act are hereby repealed.

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

ENDORSED.—Received at Executive Office, February 19, 1883, at 12:25, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Fish in Goose River.

CHAPTER 3.

AN ACT Repealing Chapter 48 of the Special Laws of 1881, Entitled "An Act to Protect the Passage of Fish in the Goose River."

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

§ 1. ACT REPEALED.] That chapter forty-eight (48), of the Special and Private Laws of 1881, Approved, March 3d, 1881, 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, February 27, 1883.

Highways.

CHAPTER 4.

AN ACT to Regulate the Survey and Marking of Public Highways in the Counties of Pennington, Custer and Fall River.

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

§ 1. WHEN HIGHWAY TO BE SURVEYED.] That in all cases whereby the order of a board of county commissioners a public highway has been legally declared, and if the same is by law required to be surveyed, then it shall be the duty of the said board of county commissioners to make a further order directing the county surveyor of the county wherein said public highway is located, to survey the same.

§ 2. DIRECTIONS FOR SURVEY.] Upon the receipt of such order from the board of county commissioners the county surveyor shall immediately proceed to survey and mark the public highway in manner following, to-wit:

By planting at the initial point of said highway a stone not less than one foot in the ground and one-half foot above ground and digging a trench encircling the same, not less than ten inches deep and one foot wide, with the dirt excavated from said trench formed in a monument around said stone. In the absence of stone a wooden post may be used not less than four inches square, planted at a depth of not less than eighteen inches in the ground and extending above the surface of the ground not less than one foot.

§ 3. SAME.] Said stones or posts planted and intrenched as aforesaid shall be erected at a distance of not more than forty rods from each other and in every angle in said highway so marked. It shall be the duty of such surveyor to make a correct and accurate plat and field notes of all surveys of highways thus made and record the same at length by courses and distances with an exact description of all the marks and monuments erected to identify said highway in a book to be kept for that purpose known as the "Road Record."

§ 4. COMPENSATION.] For the surveying, marking and recording, including the services of all assistants, the county surveyor shall be entitled to charge and receive six dollars per mile for all public highways surveyed, marked and recorded in the manner above provided, except when such highway is more than ten miles in length, and for all excess above ten miles but four dollars per mile shall be allowed, said amount to be paid out of the county treasury in the same manner as other expenses against the county.

§ 5. ACT TO APPLY TO CERTAIN COUNTIES.] This act shall apply to the counties of Pennington, Custer and Fall River only.

§ 6. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 7. This act shall take effect from and after its passage and approval.

Approved, March 9, 1883.

Insane.

CHAPTER 5.

APPROPRIATION FOR MAINTENANCE.

AN ACT Making an Appropriation for Furnishing and Maintaining the Dakota Hospital for the Insane.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Territorial Treasury for the period of two years, from and after the 22d day of February, 1883, the following sums, or so much thereof as may be necessary :

For the maintainance of the patients in the Dakota Hospital for the Insane, and for their necessary clothing, and for the board of employes and officers residing in the hospital, the sum of twenty-four thousand four hundred and fifty dollars.

For the necessary wages of employes, the sum of twelve thousand three hundred dollars.

For the necessary fuel and lights, four thousand dollars.

For the necessary incidental expenses, one thousand and five hundred dollars.

For the necessary drugs, medicines, medical books, miscellaneous periodicals and amusements for patients, two thousand and five hundred dollars.

For the necessary repairs and improvements for such hospital, two thousand and five hundred dollars.

For the necessary improvements of the hospital farm, three thousand dollars.

For improving hospital grounds, one thousand dollars.

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

Approved, February 23, 1883.

CHAPTER 6.

AUTHORIZING CONSTRUCTION OF WEST WING TO DAKOTA HOSPITAL.

AN ACT Authorizing the Issue of Bonds to Construct a West Wing to the Dakota Hospital for the Insane, and other Additions and Improvements to the Same, and to Provide for the Building and Completion thereof.

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

§ 1. APPROPRIATION.] That there be and hereby is appropriated out of the funds provided for in this act, by the negotiation of the bonds herein mentioned, the sum of twenty-five thousand dollars for the purpose of erecting a wing on the west side of the center building of the Dakota Hospital for the Insane, which shall be of the same size and general dimensions of the wing now built on the east side of said center building; and the sum of eight thousand dollars to complete and furnish the center building of said hospital; and the sum of fifteen thousand dollars to purchase and place in said hospital buildings steam heating apparatus, and the necessary fixtures and machinery in kitchen and laundry; and the sum of six thousand dollars for building a boiler, engine and steam pump house; and the sum of ten thousand dollars for building a kitchen, laundry, chapel, library and shops; and the sum of two thousand and five hundred dollars for purchasing steam engine, steam pumps and necessary fittings and attachments for the same; and the sum of one thousand one hundred and fifty dollars for performing the necessary labor of steam fitting and plumbing; and the sum of four thousand and five hundred dollars for purchasing a gas machine and gas burners and fixtures and for properly constructing and placing the same in said hospital buildings; and the sum of four thousand dollars for building a barn upon the hospital farm; and the sum of one thousand and three hundred dollars for sinking and tubing an artesian well, and for conveying the water from it into and through said hospital buildings.

§ 2. BONDS TO BE ISSUED.] To provide such funds, bonds of this Territory shall be issued to the amount of seventy-seven thousand and five hundred dollars, in denominations of five hundred dollars, bearing date the first day of May, 1883, with interest payable semi-annually at some place in New York City, to be specified in said bonds, on the first day of July and January of each year, at the rate of five per cent. per annum, running twenty

years, and payable at the option of the Territory at any time after five years from the date of the same.

§ 3. BONDS HOW EXECUTED.] Such bonds shall be executed for the Territory and under the seal thereof by the Governor and Treasurer; and shall be attested by the Secretary and shall be negotiated by the Treasurer of the Territory.

§ 4. PROPOSALS FOR BONDS.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, after giving notice for thirty days in two newspapers of general circulation, one of which shall be published in the Territory and the other in the city of New York, and said bonds shall be sold to the highest bidder for cash.

§ 5. TAX FOR PAYMENT OF BONDS.] For the purpose of the prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial board of equalization, at the time the other taxes are levied, and collected in the same manner as other Territorial taxes are collected, such sums as shall be sufficient to pay such interest and the exchange thereon; and after ten years from the first day of May, 1883, in addition thereto, a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity. And it shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year, such interest as shall then be due, and to purchase said bonds at not more than their par value, and retire and cancel the same with the sinking fund tax as fast as the same shall be received. And no tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose.

§ 6. PAYMENT OF INTEREST.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided to pay either principal or interest upon such bonds when due, he shall pay such interest or principal out of any other unappropriated fund belonging to the Territory, and there is hereby appropriated and set apart out of the general fund belonging to the Territory a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided can be available, and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due out of said funds.

§ 7. REPLACING FUNDS.] All moneys belonging to the general Territorial fund, applied by said Treasurer in payment of either principal or interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 8. PLANS AND SPECIFICATIONS.] The board of trustees and the Superintendent of the Hospital for the Insane, shall, within

ninety days after passage and approval of this act, prepare or cause to be prepared plans and specifications for building the additions and improvements enumerated in section one of this act, and after the same shall have been adopted and approved by them and the Governor of the Territory, said board of trustees shall cause said plans and specifications to be filed with their secretary; and it shall be the duty of said board, within twenty days thereafter, to give public notice, which notice shall be inserted for thirty days in two newspapers published in the Territory and of general circulation therein, and in two newspapers published in other States, and that on a day, specified in such notice, they will receive sealed proposals at the office of the Superintendent of the Hospital, near Yankton, for the building of the said additions and improvements to the Dakota Hospital for the Insane, according to the plans and specifications aforesaid, which shall be kept open for inspection of bidders at the office of the superintendent of the Hospital for the Insane, or at such place in the city of Yankton as the board may designate.

§ 9. TOTAL COST.] The total cost of said additions and improvements, machinery, fixtures and furniture, shall not exceed seventy-seven thousand and four hundred and fifty dollars.

§ 10. AWARDED CONTRACT.] On the day advertised for the opening of said proposals for erecting and completing the said additions and improvements, the board of trustees shall proceed to award the contract or contracts, as provided in section six of the amended act providing for building and better government of the Dakota Hospital for the Insane, in chapter 83 of session laws of 1881, reserving the right to reject any or all bids, if in their judgment they are too high, and may again advertise for not less than ten or more than twenty days for proposals.

§ 11. WHEN TO BE COMPLETED.] The walls of said buildings shall be constructed of good brick or stone, except the wing which shall be of good brick, and said buildings shall be made as nearly fire proof as practicable. The material used in constructing said additions and improvements shall be examined by the board of trustees or a committee thereof, and they shall reject all material which they deem unsuitable, and the said additions and improvements shall be enclosed on or before the tenth day of November, 1883, and said buildings shall be completed and ready for occupancy on or before the tenth day of February, 1884.

§ 12. PARTIAL PAYMENTS.] The board of trustees, as the work progresses, shall, on application of the contractor or contractors, certify to the Territorial Auditor the value of the work done on the said additions and improvements at the time, and on such certified statement the Auditor shall issue a warrant on the Terri-

torial Treasurer for a sum not exceeding eighty-five per cent. of the value of the work so certified to have been done on said additions and improvements at the time of making such application, including amount of all warrants previously issued in part payment of such work :

Provided, That no part of the funds herein appropriated for the construction of said additions or improvements shall be paid or value of work certified by the trustees, until at least one fourth of the work has been completed by the contractor or contractors.

§ 13. MATERIAL TO BE OF GOOD QUALITY.] The contract or contracts aforesaid, shall stipulate that all material shall be of good quality, and that the work shall be performed in a good workmanlike manner.

§ 14. FINAL PAYMENT.] The balance due the contractor or contractors under the contract or contracts, shall be paid on the completion of the additions or improvements, and their acceptance and approval by the board of trustees.

§ 15. IN CASE OF DIVISION OF TERRITORY.] That part of the Territory of Dakota in which said Hospital for the Insane is located, shall, on the division of the Territory, assume all debts incurred and then existing on account of the construction of said Hospital buildings.

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

Approved, February 23, 1883.

CHAPTER 7.

JAMESTOWN HOSPITAL.

AN ACT Authorizing the Issue of Bonds to Construct a Hospital for the Insane at or near the city of Jamestown, Dakota Territory, and to Provide for the Building of the same.

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

§ 1. APPROPRIATION.] That there be and hereby is appropriated out of the funds provided for in this act, by the negotiation of the bonds herein mentioned, the sum of fifty thousand (\$50,000) dollars, for the purpose of erecting a Hospital for the Insane, at or near the city of Jamestown, Dakota.

§ 2. BONDS TO BE ISSUED.] To provide such fund, bonds of this Territory shall be issued to the amount of fifty thousand dollars, in denomination of five hundred dollars, bearing date May 1st, 1884, with interest payable semi annually at some place in New York City, to be specified in said bonds, on the first day of July and January of each year, at the rate of six per cent. per annum, running twenty years and payable at the option of the Territory at any time after ten years from the date of the same.

§ 3. BONDS, HOW EXECUTED.] Such bonds shall be executed for the Territory and under the seal thereof by the Governor and Treasurer, [and] shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory,

§ 4. PROPOSALS TO BE RECEIVED.] It shall be the duty of [the] Treasurer to receive sealed proposals for the purchase of said bonds, after giving notice for thirty days in two newspapers of general circulation, one of which shall be published in the Territory and the other in the city of New York, and said bonds shall be sold to the highest bidder for cash.

§ 5. BOND TAX.] For the purpose of prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial Board of Equalization, at the time the other taxes are levied and collected in the same manner as other Territorial taxes are collected, such sums as are sufficient to pay such interest and the exchange thereon; and after nine years from the first day of May, 1884, in addition thereto, a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity; and it shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year, such interest as shall then be due, and purchase said bonds at their par value, and retire and cancel the same with the sinking fund tax as fast as the same shall be received, and no tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose.

§ 6. INTEREST TO BE PAID OUT OF OTHER FUND.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds, herein provided, to pay either principal or interest upon such bonds when due, he shall pay such principal and interest out of any other unappropriated fund belonging to the Territory; and there is hereby appropriated and set apart out of the general funds belonging to the Territory, a sum sufficient to pay such interest on said bonds as may be due before the funds and tax herein provided can be made available, and it shall be the duty of the said Treasurer to pay said interest promptly at the time it falls due out of said funds.

§ 7. REPLACING FUNDS.] All moneys belonging to the general

Territorial fund, applied by said Treasurer in payment of either principal or interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 8. PLANS FOR BUILDINGS.] The board of trustees and the Superintendent of the Hospital for the Insane, shall within one year after the passage and approval of this act, prepare or cause to be prepared a plan and specification for a building for a Territorial Hospital for the Insane, and after the same shall have been adopted and approved by them and the Governor of the Territory, wherein the Hospital shall be located, said board of trustees shall cause said plan and specifications to be filed with the Secretary thereof. And it shall be the duty of said board, within twenty days thereafter, to give at least thirty days notice in two newspapers published in the Territory, of general circulation therein, and two newspapers published in the State of Minnesota, that on a day specified in such notice they will receive sealed proposals at the office of the Superintendent of the Hospital, or any other place they may designate, in the city of Jamestown, Dakota Territory, for the building of a Territorial Hospital for the Insane, according to the plans and specifications aforesaid, which shall be kept open for the inspection of bidders at some convenient place in the city of Jamestown to be mentioned in said notice.

§ 9. TOTAL COST—BIDS.] The total cost of said Hospital, including the fixtures, grounds, furniture and improvements of grounds, shall not exceed fifty thousand dollars, and shall be erected on a piece or parcel of ground not less than six hundred and forty acres in extent, to be selected within not to exceed four miles of the court house of Stutsman county, Dakota Territory.

§ 10 OPENING BIDS.] On the day advertised for the opening of said proposals for the erection of said Hospital, it shall be the duty of said board of trustees to attend at the place and time so advertised, and publicly open said bids, and then and there award the contract for erecting said building according to the plan so selected to the lowest responsible bidder therefor:

Provided, That the said contractor shall give bond with sufficient sureties, to be approved by the said board of trustees, conditioned for the faithful performance of the contract, in the sum of thirty thousand dollars:

Provided, That the board of trustees shall reserve the right to reject any and all bids, if, in their judgment, they are too high, and may again advertise for proposals.

§ 11. WHEN BUILDING TO BE COMPLETED.] The walls of said building shall be constructed of good brick or stone, and said building shall be made as nearly fire proof as practicable; the materials used in said building shall be examined by the board of

trustees or a committee thereof, and they shall reject all material which they deem unsuitable, and the said building shall be inclosed on or before the first day of November, 1884, and said building shall be all completed and ready for occupancy on or before the first day of January, 1885.

§ 12. PARTIAL PAYMENTS.] The board of trustees as the work progresses, shall, on the application of the contractor, certify to the Territorial Auditor the value of the work done on the building at the time, and on such certified statement the Auditor shall issue a warrant on the Territorial Treasurer for a sum not exceeding eighty-five per cent. of the value of the work so certified to have been done on said building at the time of making such application, including amount of all warrants previously issued in part payment of such work :

Provided, That no part of the funds herein appropriated for the construction of said Hospital shall be paid, or value of work certified by the trustees, until at least one fourth of the work has been completed by the contractor.

§ 13. WHAT CONTRACT TO STIPULATE.] The contract aforementioned shall stipulate that all material shall be of good quality and the work shall be performed in a good and workmanlike manner.

§ 14. FINAL PAYMENTS.] The balance due the contractor under the contract, shall be paid on the completion of the building and its acceptance and approval by the board of trustees.

§ 15. DEBT IN CASE OF DIVISION.] That part of the Territory of Dakota in which said Hospital for the Insane is situated, shall, on the division of the Territory, assume all debts incurred and then existing on account of the construction of said Hospital.

§ 16. OFFICER TO HAVE NO INTEREST IN CONTRACT.] No trustee, officer or servant of said Insane Hospital, shall be interested either directly or indirectly in any contract authorized to be entered into by the provisions of this bill, and every person guilty of a violation hereof shall be guilty of a misdemeanor.

§ 17. PATIENTS FROM NORTH DAKOTA TO BE SENT TO JAMESTOWN.] As soon as said North Dakota Hospital for the Insane shall be ready for the reception and care of patients, the board of commissioners of insanity constituted under chapter 23 of the laws of 1879, in each organized county lying north of the forty-sixth parallel of latitude, and in each such county of which the greater portion shall be north of said parallel, shall transact all business arising under said chapter 23, with the trustees and officers of the said North Dakota Hospital, instead of the Dakota Hospital for the Insane at Yankton ; and all counties thus lying north of said line are hereby constituted the district belonging to said North Dakota

Hospital for all purposes contemplated in said chapter 23, and the other counties in the Territory are constituted the district belonging to the Dakota Hospital for such purposes; and all patients belonging to said northern district under treatment at the Dakota Hospital for the Insane at the time said North Dakota Hospital shall be ready for patients as aforesaid, shall be transferred to said North Dakota Hospital at the expense of the last named institution.

§ 18. CERTAIN LAWS APPLICABLE.] All laws heretofore enacted for the government of the Dakota Hospital for the Insane shall apply to and govern the North Dakota Hospital aforesaid, so far as applicable to the same; and all by-laws heretofore adopted by the board of trustees of said Dakota Hospital to govern the same, shall apply to and govern the said North Dakota Hospital until they shall be modified or repealed by the action of the board of trustees thereof.

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

Approved March 9, 1883.

Laws.

CHAPTER 8.

TO PROVIDE FOR FURNISHING 1,000 VOLUMES OF CODES AND SESSIONS LAWS.

AN ACT to Provide for the Printing and Binding of the Revised Codes of 1877, and the Session Laws of 1879 and 1881.

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

§ 1. DUTY OF SECRETARY.] It shall be the duty of the Secretary of Dakota Territory to procure and have printed and bound one thousand copies each of the Revised Codes of 1877 and the Session Laws of 1879 and 1881. Said work to be completed on or before the first day of January, 1884.

§ 2. ADVERTISE FOR BIDS.] For the purpose of making the cost of procuring said laws as cheap as possible to the Territory, the Secretary is hereby required and it is made his duty to adver-

tise for bids to print and bind and complete said work and let the contract to the lowest and best bidder. Said advertisement for sealed proposals for such printing and binding to be made in two or more newspapers of general circulation published in the Territory, at least thirty days before said contract is let :

Provided, That said contract shall not be let to any one except to an actual publisher and printer resident of the Territory.

§ 3. AWARDING CONTRACT.] That within twenty days after the passage of this act, the Secretary shall proceed to advertise for such bids and proposals, and at the time specified in such advertisement he shall let such contract for the printing and binding said laws as hereinbefore provided, taking a good and sufficient bond from the contractor for the faithful and speedy performance of said contract.

§ 4. APPROPRIATION.] That the sum of five thousand dollars is hereby appropriated out of the funds of the territorial treasury, not otherwise appropriated, or so much thereof as may be necessary, for the payment of the printing and binding such laws as herein provided.

§ 5. This act shall take effect and be in force on and after its passage and approval.

Approved, March 9, 1883.

Legalizing Acts.

CHAPTER 9.

WM. L. CHADWICK.

AN ACT to Legalize the Acts of William L. Chadwick as Notary Public.

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

§ 1. That the acts of William L. Chadwick as notary public from the eighteenth day of December, A. D. 1881, to and including the 17th day of November, A. D. 1882, be and the same are hereby legalized and made valid.

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

Approved, March 9, 1883.

CHAPTER .10

WILLIAM R. GOODFELLOW.

AN ACT to Legalize the Acts of William R. Goodfellow as Notary Public of the Territory of Dakota.

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

§ 1. CERTAIN ACKNOWLEDGMENTS LEGALIZED.] That all acknowledgments of deeds, mortgages, or other instruments in writing, and oaths administered by and affidavits taken before William R. Goodfellow as notary public of the Territory of Dakota, from and after the 26th day of September, 1882, be, and the same is hereby legalized; and such acknowledgments and affidavits shall have the same force and effect as if the said William R. Goodfellow as such notary public was duly authorized to take and certify acknowledgments of deeds, mortgages, and other instruments in writing, and to take and certify to the administering of oaths and affidavits by the laws of this Territory.

§ 2. SAME.] That all deeds, mortgages, and other instruments in writing, acknowledged before said William R. Goodfellow as notary public, between the dates of September 26th, 1882, and January 1st, 1883, which now are, or hereafter shall be, placed on record, shall, and they are, hereby declared to be duly recorded, and shall be notice to all persons, the same as though said deeds, mortgages, and other instruments, had been acknowledged before and certified by an officer competent to take and subscribe acknowledgments under the laws of this Territory.

§ 3. SAME.] That deeds, mortgages, and other instruments in writing, the acknowledgments of which have been taken and certified by and before William R. Goodfellow as notary public of this Territory, between the 26th day of September, 1882, and the 1st day of January, 1883, are hereby declared to be acknowledged and certified, and the record of the same shall be as valid and binding in law and equity as though the same had been acknowledged before some officer duly authorized by the laws of this Territory to take and certify acknowledgments of deeds, mortgages, and other instruments in writing.

§ 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed so far as they apply to the cases herein provided for by this act.

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

Approved, March 9, 1883.

CHAPTER 11.

C. J. B. HARRIS.

AN ACT to Legalize the Acts of C. J. B. Harris of [as] Notary Public of the Territory of Dakota.

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

§ 1. ACKNOWLEDGMENTS, ETC., LEGALIZED.] That all acknowledgments of deeds, mortgages and other instruments in writing and all oaths administered by and affidavits taken before C. J. B. Harris, notary public of the Territory of Dakota, between the third and ninth days of February, A. D. 1883, are hereby legalized ; and such acknowledgments and affidavits shall have the same force and effect as if the said C. J. B. Harris as said notary public was during said time duly commissioned and qualified to act.

§ 2. SAME.] That all deeds, mortgages and other instruments in writing acknowledged by the said C. J. B. Harris, as notary public, between the dates aforesaid are hereby declared to be duly acknowledged and certified, and the same, whether now recorded or hereafter placed on record, are hereby declared to be duly recorded, and shall be as binding and valid in law and equity as though the same had been acknowledged before some officer duly authorized by the laws of this Territory to take and certify acknowledgments of deeds, mortgages and other instruments in writing, and the said record of the same shall be notice to all persons the same as though the same had been acknowledged before and certified to by an officer competent to take and certify acknowledgments under the laws of this Territory.

§ 3. That all acts or parts of acts in conflict with the provisions of this act are hereby repealed, so far as they apply to the cases herein provided for by this act.

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

Approved, March 9, 1883.

CHAPTER 12.

EDWIN T. WHITE.

AN ACT to Legalize the Acts of Edwin T. White as Notary Public of the Territory of Dakota.

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

§ 1. ACKNOWLEDGMENTS, ETC., LEGALIZED.] That all acknowledgments of deeds, mortgages and other instruments in writing, and all oaths administered by and affidavits taken before Edwin T. White as notary public of the Territory of Dakota, between the 21st day of January, 1882, and the 25th day of May, 1882, are hereby legalized ; and such acknowledgments and affidavits shall have the same force and effect as if the said Edwin T. White as such notary public was duly authorized to take and certify acknowledgments of deeds, mortgages and other instruments in writing, and to take and certify to the administering of oaths and affidavits by the laws of this Territory.

§ 2. SAME.] That all deeds, mortgages and other instruments in writing, acknowledged before said Edwin T. White, as notary public, between the dates aforesaid, which now are or shall hereafter be placed on record, shall be and they are hereby declared to be duly recorded, and shall be notice to all persons the same as though said deeds, mortgages and other instruments had been acknowledged before and certified by an officer competent to take and subscribe acknowledgments under the laws of this Territory.

§ 3. SAME.] That deeds, mortgages and other instruments in writing, the acknowledgments of which have been taken and certified by and before Edwin T. White, as notary public of this Territory, between the 21st day of January, 1882, and the 25th day of May, 1882, are hereby declared to be acknowledged and certified, and the record of the same shall be as valid and binding, in law and equity as though the same had been acknowledged before some officer duly authorized by the laws of this Territory to take and certify acknowledgments of deeds, mortgages and other instruments in writing.

§ 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed so far as they apply to the cases herein provided for by this act.

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

Approved, February 7, 1883.

Normal Schools.

CHAPTER 13.

LARIMORE.

AN ACT to Locate and Establish a Territorial Normal School.

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

1. NORMAL SCHOOL ESTABLISHED—BRANCHES TAUGHT.] That a Normal School for the Territory of Dakota be established at Larimore, in Grand Forks county, Dakota Territory, the exclusive purpose of which shall be the instruction of persons, both male and female, in the art of teaching and in all the various branches that pertain to a good common school education ; also to give instruction in the mechanical arts, and in husbandry and in agricultural chemistry, in the fundamental laws of the United States, and in what regards the rights and duties of citizens :

Provided, That a tract of land not less than forty (40) acres, adjacent to said town of Larimore, be donated and secured to the Territory of Dakota, in fee simple, as a site for said Normal School, within six months from the taking effect of this act ; and the Governor of the Territory is hereby empowered, and it is made his duty to see that a good and sufficient deed is made to the Territory for the same.

§ 2. HOW GOVERNED.] The said Normal School shall be under the direction of a board of education, and shall be governed and supported as herein provided.

§ 3. BUILDING.] The board of education are hereby authorized, and it is made their duty, to immediately commence the erection and construction of a suitable building for said Normal School, upon the ground specified in this act, as a site for the same, as soon as sufficient appropriation is made for the erection thereof. They shall have the power to let contracts for the building and completion of said Normal School building, and shall have the entire supervision of its construction :

Provided, That all contracts connected with the erection of said building shall be let to the lowest responsible bidder, after notices of the letting of such contracts shall have been published in at least four of the leading newspapers located in different parts of the

Territory for at least thirty days before the letting of said contracts, and the board shall have power to reject any and all bids.

§ 4. BOARD OF EDUCATION—HOW COMPOSED.] Said board of education shall consist of five members, three of whom shall be appointed by the Governor, and by and with the consent of the legislative council; one of whom shall hold his office for six years, another for four years and another for two years. The Governor shall designate which one shall [hold] his office for six years, which for four years and which for two years. The Territorial Treasurer and the Superintendent of Public Instruction shall by virtue of their offices be members of said board. The Territorial Treasurer shall by virtue of his office be the treasurer of said board, and the members thereof shall, annually, elect from their number a president and secretary. It shall be the duty of the secretary to keep an exact and detailed account of the doings of said board, and he shall make such reports to the Legislature as are required by this act; and no member of said board of education shall, during his continuance in office as a member of said board, act as agent of any publisher or publishers of school books, or school library books, or to be or become interested in the publication or sale of such books as agent or otherwise. And the Governor of this Territory is hereby authorized and required, upon satisfactory evidence being produced to him, that any member of said board of education is employed as aforesaid, to remove such member of said board from office and appoint another in his place to fill such vacancy.

§ 5. TEACHERS.] Said board of education shall have power to appoint a principal and assistant to take charge of said school, and such other teachers and officers as may be required in said school, and fix the salary of each and prescribe their several duties. They shall also have power to remove either principal, assistant or teachers and appoint others in their stead. They shall prescribe the various books to be used in said school, and shall make all the regulations and by-laws necessary for the good government and management of the same.

§ 6. NOTICE, WHEN PREPARED TO RECEIVE PUPILS.] As soon as said Normal School is prepared to receive pupils, the Superintendent of Public Instruction shall give notice of the fact to each county clerk in the Territory, and shall publish said notice in a newspaper published in each judicial district.

§ 7. RULES AND REGULATIONS.] The board of education shall ordain such rules and regulations for the admission of pupils to said school as they shall deem necessary and proper. Every applicant for admission shall undergo an examination in such manner as shall be prescribed by the board, and if it shall appear that the applicant is not a person of good moral character or will not

make an apt and good teacher, such applicant shall be rejected. The board of education may in their discretion require an applicant for admission in said school, other than such as shall prior to such admission, sign and file with said board a declaration of intention to follow the business of teaching schools in this Territory, to pay or secure to be paid such fees or tuition as to said board shall seem reasonable.

§ 8. PUPILS.] Any person may be admitted as a pupil of said Normal School who shall pass a satisfactory examination :

Provided, That the applicant shall before admission [sign] a declaration of intention to follow the business of teaching schools in this Territory :

And, provided further, That the pupils may be admitted without signing such declaration of intention on such terms as the Normal School board may prescribe ; and each county shall be entitled to send pupils in the ratio of their representation in the Legislature, to which it may be entitled, not to exceed such a number as the board may prescribe.

§ 9. VISITING BOARD.] After said Normal School shall have commenced its first term and at least once in each year thereafter, it shall be visited by three suitable persons not members, to be appointed by the board of education, who shall examine thoroughly into the affairs of the school and report to the Superintendent of Public Instruction or Auditor their views in regard to its condition, success and usefulness and any other matter they may judge expedient. Such visitors shall be appointed annually.

§ 10. LECTURES.] Lectures in chemistry, comparative anatomy, the mechanical arts, agricultural chemistry and any other science, or any other branches of literature that the board of education may direct, may be delivered to those attending such school, in such manner and on such terms and conditions as the board of education may prescribe.

§ 11. CERTIFICATES.] As soon as any person has attended said institution twenty-two (22) weeks, said person may be examined in the studies required by the board in such manner as may be prescribed by them, and if it shall appear that such person possesses the learning and other qualifications necessary to teach a good common school, said person shall receive a certificate which shall entitle the holder to teach a common school in any county in the Territory for the time and branches stated in said certificate.

§ 12. FUNDS, HOW CONTROLLED.] All funds appropriated for the use and benefit of said Normal School, [shall] be under the direction and control of the board of education subject to the conditions and provisions herein contained. The Treasurer of the Territory shall

pay out of such funds all orders or drafts for money to be expended under the provisions of this act. Such orders or drafts to be drawn by the Territorial Auditor on certificates of the Secretary countersigned by the President of the board. No such certificate shall be given except upon accounts audited and allowed by the board at their regular meetings.

§ 13. WHAT EXPENSES TO BE PAID.] Services and all other necessary traveling expenses as hereinafter provided, incurred by the board of education in carrying out the provisions of this act, shall be paid on the proper certificate, out of any funds belonging to said institution in the hands of the treasurer, until the erection and completion of the necessary buildings. The principal, assistants, teachers and board of education and other officers employed in said school shall be paid out of the Normal School fund; and from the receipts for tuition after the erection of the necessary buildings. The members of the board of education shall be entitled to three dollars per day, and ten cents for each mile necessarily traveled in attending the meetings of the board.

§ 14. VACANCIES.] That it shall be the duty of the Governor to fill by appointment all vacancies that may from any cause occur in the board of education of the Territorial Normal School, and he may from neglect of duty or any violation of the trust reposed, or the arbitrary exercise of the power conferred, remove any member of said board and appoint a suitable person in his stead.

§ 15. REGULAR MEETINGS.] The board of education shall hold two regular meetings in each year, viz: during the first week in June and the first week in January in each year, at which first meeting the officers of the board shall be elected. All meetings of the board shall when practicable be in the Normal School building, and all financial matters, allowances, claims and accounts shall be disposed of at such regular meetings only. Special meetings of the board may be called upon written order of the President of the same, which order shall specify the object of the meeting. An adjournment may be had from a regular or special meeting, but the journal must in either case state the reasons in full for the same. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept at any reasonable time open to the inspection of any members of the board.

§ 16. REPORT.] The clerk of the board of education, shall, on the first day of January of each year, transmit to the Governor a full report of the expenditures of the same for the previous year, setting forth in full each item and the date thereof.

§ 17. MORALS OF PUPILS.] The board of education in their regulations, and the principal in his supervision and government of the schools, shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance on the same, but no religious or sectarian tests shall be applied in the selection of teachers, and none shall be adopted in the school.

§ 18. EXPENSES FOR ADVERTISEMENT, HOW PAID.] That all necessary expenses arising from advertisement for bids in contracts shall be paid by a warrant drawn by the Auditor upon the Territorial Treasurer;

Provided, That all accounts for expenses above specified shall be first approved by the Superintendent of Public Instruction.

§ 19. This act shall take effect from and after its passage and approval.

Approved, March 9, 1883.

CHAPTER 14.

MADISON—APPROPRIATION.

AN ACT Appropriating Funds for the Construction of a Normal School Building at Madison, Lake County, Dakota Territory, and for other purposes.

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

§ 1. AMOUNT APPROPRIATED.] That there is hereby appropriated out of the general funds in the Territorial Treasury not otherwise appropriated, the sum of five thousand (\$5,000.00) dollars, to be used in the constructing and furnishing of a Territorial Normal School building at Madison, Lake County, D. T., also two thousand (\$2,000) dollars to be used in defraying the incidental expenses and for teachers wages for said Normal School.

§ 2. MONEYS, HOW PAID.] No money shall be paid out under this act. except upon an order signed by a majority of the board of education of said Normal School.

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

Approved, March 9, 1883.

CHAPTER 15.

MADISON—AUTHORIZING SALE OF LAND.

A BILL For An Act Authorizing the Sale of the Tract of Land heretofore Selected and Deeded to the Territory as a Site for a Normal School at Madison, Lake County, and to Accept a Different Tract for such Site.

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

§ 1. AUTHORITY TO SELECT TWENTY ACRES.] Instead of the tract of land containing one hundred and sixty acres heretofore deeded to the Territory of Dakota as a site for a Normal School at or near Madison in Lake County, in accordance with the proviso to section number one (1) of the act entitled "An Act to Locate, Establish and Endow a State Normal School," approved March 5th, 1881, there shall be donated and secured to the Territory of Dakota by lawful deed in fee simple free from all incumbrances, a tract of land of not less than twenty acres nearer the center of said town of Madison, as a site for said Normal School. Said tract shall be conveyed to the Territory of Dakota by good and sufficient deed in fee simple in the law, and the Governor of the Territory is hereby empowered and it is made his duty to see that a proper deed is so made to the Territory for such tract.

§ 2. SALE OF FORMER TRACT.] When such tract has been accepted as a new site and the deed thereof has been accepted by the Governor, the board of education of said Normal School is hereby authorized and empowered to sell the tract of land now owned by the Territory as a site for said Normal School. Such sale shall be made at public auction after not less than six weeks notice duly published by the board in two newspapers published at said town of Madison, and the sale shall be made to the highest bidder and for cash. But such sale shall not be made until another tract as hereinbefore provided has been accepted as a site, and the deed therefor accepted by the Governor. The deed for the tract so sold shall be made by the Governor in the name of the Territory of Dakota, and the Governor shall sign the same and cause it to be attested by the Secretary of the Territory with the great seal of the Territory attached. Such deed shall be a lawful and valid grant and conveyance without further proof or acknowledgment and shall be admitted to record accordingly.

§ 3. WHO TO ATTEND SALE.] Either the Territorial Treasurer or Superintendent of Public Instruction with at least two other members of said board shall join in the preparation for said sale,

and at least one of such officers shall attend it and report the same to the Governor ; but all members may join.

§ 4. MONEY, HOW DISPOSED OF.] The money received from such sale shall be paid to the treasurer of said board, being the Territorial Treasurer, and for and as part of the building fund for said Normal School.

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

Approved, March 9, 1883.

CHAPTER 16.

MADISON—BONDS AUTHORIZED.

AN ACT Authorizing the Village Board of Madison, Lake County, Territory of Dakota, to Issue Bonds for the Purpose of Paying for Normal School Land.

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

§ 1. MADISON TO ISSUE BONDS.] That the village board of Madison, Lake county, Dakota, be empowered and are hereby authorized to issue bonds of not less than one hundred dollars each to the amount of two thousand dollars or so much as may be necessary, but not to exceed two thousand dollars, payable in not less than ten years nor to exceed fifteen years from the date thereof for the purpose of paying for normal school land ; said bonds shall draw interest from the date thereof at a rate not to exceed seven per cent per annum, payable annually. The bonds shall specify upon their face, the date, amount, and for what purpose issued, the time and place of payment and rate of interest, and shall be printed on good paper, with coupons attached for each year's interest, and the amount of each year's interest shall be placed in corresponding coupons, until such bonds shall become due in a manner so as to have the last coupon fall due at the same time as the bond to which it may be attached ; said bonds and the coupons thereto attached shall each be registered by the president and councilmen of said village and shall be payable at such place or places, as said village officers may designate in said bonds and coupons.

§ 2. BOND TAX.] The officers of said village are hereby granted all the necessary authority to levy taxes from time to time not to exceed one per cent. of the value of taxable property in said village in addition to the tax already allowed by law; said tax to be used only for the purpose of paying interest upon said bonds promptly when due and for creating a sinking fund for paying the principal of said bonds when due.

§ 3. FUNDS, HOW USED.] The funds arising from sale of said bonds shall be used for normal school purposes only.

§ 4. SPECIAL ELECTION.] *Provided*, That nothing in this act shall be so construed as to authorize any action to be taken by the said village board to issue said bonds before the question has been submitted to the legal voters of said village at a general or special election called for that purpose, and decided in the affirmative by a majority of the legal voters voting at said election.

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

ENDORSED.—Received at Executive Office, February 27, 1883, at 12:15, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

CHAPTER 17.

MINTO.

AN ACT to Locate and Establish a Territorial Normal School at Minto, Walsh County, Dakota, and for other Purposes.

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

§ 1. NORMAL SCHOOL LOCATED AT MINTO—PURPOSE—PROVISO.] That a Normal School for the Territory of Dakota, be established at Minto, Walsh county, Dakota Territory, the exclusive purpose of which shall be the instruction of persons, both male and female,

in the art of teaching, and in all the various branches that pertain to a good common school education ; also to give instruction in the mechanical arts and in husbandry, and in agricultural chemistry, in the fundamental laws of the United States, and in what regards the rights and duties of citizens ;

Provided, That a tract of land not less than forty acres within one mile of the corporate limits of the town of Minto aforesaid, be donated and secured to the Territory of Dakota, in fee simple, as a site for said Normal School, within six months after the passage and approval of this act, and the Governor of the Territory is hereby empowered and it is made his duty to see that a good and sufficient deed be made the Territory for the same.

§ 2. SUPERVISION.] That said Normal School shall be under the direction of a board of education, and shall be governed and supported as hereinafter provided.

§ 3. BOARD TO ERECT BUILDING, ETC.] The said board of education are hereby authorized and it is made a part of their duty to immediately commence the construction and erection of a suitable building for said Normal School, upon the grounds specified in this act as a site for the same, as soon as a sufficient appropriation is secured for the erection thereof. They shall have the power to let contracts for the building and completing of said Normal School building, and shall have the entire supervision of its construction :

Providing, That all contracts let for the erection and completion of said institution, shall be let to the lowest responsible bidder, after notice of the letting of said contract shall have been published in at least four of the leading newspapers located in different parts of the Territory for at least thirty (30) days before the letting of said contract, and the said board shall have the power to reject any or all bids. It is also the duty of the said board of education and they are hereby empowered to make the selection of said site for said Normal School.

§ 4. NUMBER OF BOARD AND TERMS OF OFFICE—REPORTS, ETC.] Said board of education shall consist of five (5) members, three of whom shall be appointed by the Governor and by and with the consent of the legislative council, one of whom shall hold his office for six (6) years, one for four (4) years, one for two (2) years. The Governor shall designate the one who shall hold his office for six (6) years, the one for four (4) years, the one for two (2) years. The Territorial Treasurer and Superintendent of Public Instruction shall, by virtue of their offices, be members of said board. The Territorial Treasurer by virtue of his office shall be treasurer of said board, and the members thereof shall annually elect from their number a president and secretary. It shall be the duty of the secretary to keep an exact detailed account of the doings of

said board, and he shall submit such reports to the Legislature as are required by this act; and no member of said board of education shall, during his continuance in office as a member of said board, act as an agent of any publisher or publishers of school books or school library books, either directly or indirectly; and the Governor of the Territory is hereby authorized and required, upon satisfactory evidence being produced to him, that any member of said board is employed as such agent or interested as aforesaid, to remove such member of said board from office, and to appoint another in his place to fill such vacancy.

§ 5. POWERS OF BOARD TO APPOINT AND REMOVE.] Said board shall have power to appoint a principal and assistant to take charge of said school, and such other teachers and officers as may be required in said school, and fix the salary of each and prescribe their several duties. They shall also have power to remove either the principal, assistant or teachers and appoint others in their stead. They shall prescribe the various books to be used in said school, and make all regulations and by-laws necessary for the good government.

§ 6. NOTICE WHEN SCHOOL IS READY FOR PUPILS.] As soon as said Normal School is prepared to receive pupils the Superintendent of Public Instruction shall give notice of the fact to each county clerk in the Territory, and shall publish said notice in a newspaper published in each judicial district.

§ 7. APPLICATIONS FOR ADMISSION.] The board of education shall ordain such rules and regulations for the admission of pupils to said school as they shall deem necessary and proper. Every applicant for admission shall undergo an examination in such manner as shall be prescribed by the board, and if it shall appear that the applicant is not a person of good moral character, or will not make an apt and good teacher, such applicant shall be rejected. The board of education may, in their discretion, require any applicant for admission into said school, prior to such admission, [to] sign and file with said board a declaration of intention to follow the business of teaching schools in this Territory, [or] to pay or secure to be paid such fees for tuition as to such board shall seem reasonable.

§ 8. CONDITIONS OF ADMISSION TO SCHOOL.] Any person may be admitted as a pupil of said Normal School who shall pass a satisfactory examination;

Provided, That the applicant shall, before admission, sign a declaration of intention to follow the business of teaching in this Territory;

And provided, further, That the pupil may be admitted without signing such declaration of intention, on such terms as the Normal

School Board may require or prescribe; and each county shall be entitled to send pupils in ratio to their representation in the Legislature to which it may be entitled, not to exceed such number as the board may prescribe.

§ 9. VISITING SCHOOL BY COMMITTEE.] After said Normal School shall have commenced its first term, and at least once in each year thereafter, it shall be visited by three suitable persons, not members, to be appointed by the board of education, who shall examine thoroughly into the affairs of the school and report to the Superintendent of Public Instruction or Auditor their views in regard to its condition, success and usefulness, and any other matter they judge expedient. Such visitors shall be appointed annually.

§ 10. LECTURES.] Lectures in chemistry, comparative anatomy, the mechanical arts, agricultural chemistry and any other science, or any other branches of literature that the board of education may direct, may be delivered to those attending such school, in such manner and on such terms and conditions as the board of education may prescribe.

§ 11. CERTIFICATES.] As soon as any person has attended said institution twenty-two (22) weeks, said person may be examined in the studies required by the board in such manner as may be required by them, and if it shall appear that such person possesses the learning and other qualifications necessary to teach a good common school, said person shall receive a certificate which shall entitle the holder to teach a common school in any county in the Territory for the time and in the branches stated in said certificate.

§ 12. FUNDS, HOW CONTROLLED.] All funds appropriated for the use and benefit of said Normal School, shall be under the direction and control of the board of education subject to the provisions herein contained. The Treasurer of the Territory shall pay out of said funds all orders and drafts for money to be expended under the provisions of this act, such orders or drafts to be drawn by the Territorial Auditor, on certificate of the Secretary, countersigned by the President of the board. No such certificates shall be given except upon accounts audited and allowed by the board at their regular meetings.

§ 13. PAYMENT OF SALARIES, ETC.] Services and all other necessary traveling expenses, as hereinafter provided, incurred by the board of education in carrying out the provisions of this act, shall be paid on the proper certificate, out of any funds belonging to said institution in the hands of the Treasurer. Until the erection and completion of the necessary buildings, the principal, assistants, teachers, board of education and other officers employed in said school shall be paid out of the Normal School fund; and from the

receipts of tuition after the erection of the necessary buildings. The members of the board of education shall be entitled to three dollars per day and ten cents for each mile actually and necessarily traveled in attending the meetings of the board.

§ 14. VACANCIES.] That it shall be the duty of the Governor to fill by appointment all vacancies that may occur in said board of said school from neglect of duty.

§ 15. MEETINGS OF THE BOARD.] The board of education shall hold regular meetings in each year, to-wit: During the first week in June and the first week in January in each year, at which first meeting the officers of the board shall be elected. All meetings of the board shall, when practicable, be in the Normal School building, and all financial matters, allowances, claims and accounts shall be disposed of at such regular meetings only. Special meetings of the board may be called upon written order of the President of the same which shall specify the object of the meeting. An adjournment may be had from a regular or special meeting, but the adjournment must in either case state the reason in full of the same. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept subject at any time to the inspection of any member of the board.

§ 16. REPORT OF BOARD.] The clerk of the board of education shall on the first day of January of each year, transmit to the Governor a full report of the expenditures of the same for the previous year, setting forth in full each item and date thereof.

§ 17. NO RELIGIOUS TESTS REQUIRED.] The board of education in their regulations, and the principal in his supervision and government of the school shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance at said school; but no religious or sectarian tests shall be applied in the selection of teachers, and none be adopted in the school.

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

ENDORSED.—Received at Executive Office, March 2, 1883, at 4, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

CHAPTER 18.

PEMBINA.

AN ACT to Locate, Establish and Endow a Territorial Normal School.

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

§ 1. NORMAL SCHOOL AT PEMBINA.] That a Normal School for the Territory of Dakota be established at Pembina, in Pembina county, Dakota Territory, the exclusive purpose of which shall be the instruction of persons, both male and female, in the art of teaching, and in all the various branches that pertain to a good common school education ; also to give instruction in the mechanical arts and in husbandry, and in agricultural chemistry, in the fundamental laws of the United States, and in what regards the rights and duties of citizens ;

Provided, That a tract of land not less than forty acres within one mile of the corporate limits of the town of Minto aforesaid, be donated and secured to the Territory of Dakota, in fee simple, as a site for said Normal School, within six months after the passage and approval of this act, and the Governor of the Territory is hereby empowered and it is made his duty to see that a good and sufficient deed be made the Territory for the same.

§ 2. SUPERVISION.] That said Normal School shall be under the direction of a board of education, and shall be governed and supported as herein provided.

§ 3. BOARD TO ERECT BUILDING, ETC.] The said board of education are hereby authorized and it is made a part of their duty to immediately commence the construction and erection of a suitable building for said Normal School, upon the grounds specified in this act as a site for the same, as soon as a sufficient appropriation is secured for the erection thereof. They shall have power to let contracts for the building and completing of said Normal School building, and shall have the entire supervision of its construction :

Providing, That all contracts let for the erection and completion of said institution, shall be let to the lowest responsible bidder, after notice of the letting of said contract shall have been published in at least four of the leading newspapers located in different parts of the Territory for at least thirty (30) days before the letting of said contract, and the said board shall have the power to reject any or all bids. It is also the duty of the said board of education and they are hereby empowered to make the selection of said site for said Normal School.

§ 4. NUMBER OF BOARD AND TERMS OF OFFICE—REPORTS, ETC.] Said board of education shall consist of five (5) members, three of whom shall be appointed by the Governor and by and with the consent of the legislative council, one of whom shall hold his office for six (6) years, one for four (4) years, one for two (2) years. The Governor shall designate the one who shall hold his office for six (6) years, the one for four (4) years, the one for two (2) years. The Territorial Treasurer and Superintendent of Public Instruction shall, by virtue of their offices, be members of said board. The Territorial Treasurer by virtue of his office shall be treasurer of said board, and the members thereof shall annually elect from their number a president and secretary. It shall be the duty of the secretary to keep an exact detailed account of the doings of said board, and he shall submit such reports to the Legislature as are required by this act; and no member of said board of education shall, during his continuance in office as a member of said board, act as an agent of any publisher or publishers of school books or school library books, either directly or indirectly; and the Governor of the Territory is hereby authorized and required, upon satisfactory evidence being produced to him, that any member of said board is employed as such agent or interested as aforesaid, to remove such member of said board from office, and to appoint another in his place to fill such vacancy.

§ 5. POWERS OF BOARD TO APPOINT AND REMOVE.] Said board shall have power to appoint a principal and assistant to take charge of said school, and such other teachers and officers as may be required in said school, and fix the salary of each and prescribe their several duties. They shall also have power to remove either the principal, assistant or teachers and appoint others in their stead. They shall prescribe the various books to be used in said school, and make all regulations and by-laws necessary for the good government and management of the same.

§ 6. NOTICE WHEN SCHOOL IS READY FOR PUPILS.] As soon as said Normal School is prepared to receive pupils the Superintendent of Public Instruction shall give notice of the fact to each county clerk in the Territory, and shall publish said notice in a newspaper published in each judicial district.

§ 7. APPLICATIONS FOR ADMISSION.] The board of education shall ordain such rules and regulations for the admission of pupils to said school as they shall deem necessary and proper. Every applicant for admission shall undergo an examination in such manner as shall be prescribed by the board, and if it shall appear that the applicant is not a person of good moral character, or will not make an apt and good teacher, such applicant shall be rejected. The board of education may, in their discretion, require any applicant for admission into said school, prior to such admis-

sion, to sign and file with said board a declaration of intention to follow the business of teaching schools in this Territory, [or] to pay or secure to be paid such fees for tuition as to such board shall seem reasonable.

§ 8. CONDITIONS OF ADMISSION TO SCHOOL.] Any person may be admitted as a pupil of said Normal School who shall pass a satisfactory examination;

Provided, That the applicant shall, before admission, sign a declaration of intention to follow the business of teaching schools in this Territory;

And provided, further, That the pupil may be admitted without signing such declaration of intention, on such terms as the Normal School Board may require or prescribe; and each county shall be entitled to send pupils in ratio to their representation in the Legislature to which it may be entitled, not to exceed such number as the board may prescribe.

§ 9. VISITING SCHOOL BY COMMITTEE.] After said Normal School shall have commenced its first term, and at least once in each year thereafter, it shall be visited by three suitable persons, not members, to be appointed by the board of education, who shall examine thoroughly into the affairs of the school and report to the Superintendent of Public Instruction or Auditor their views in regard to its condition, success and usefulness, and any other matter they may judge expedient. Such visitors shall be appointed annually.

§ 10. LECTURES.] Lectures in chemistry, comparative anatomy, the mechanical arts, agricultural chemistry and any other science, or any other branches of literature that the board of education may direct, may be delivered to those attending such school, in such manner and on such terms and conditions as the board of education may prescribe.

§ 11. CERTIFICATES.] As soon as any person has attended said institution twenty-two (22) weeks, said person may be examined in the studies required by the board in such manner as may be required by them, and if it shall appear that such person possesses the learning and other qualifications necessary to teach a good common school, said person shall receive a certificate which shall entitle the holder to teach a common school in any county in the Territory for the time and in the branches stated in said certificate.

§ 12. FUNDS, HOW CONTROLLED.] All funds appropriated for the use and benefit of said Normal School, shall be under the direction and control of the board of education subject to the provisions herein contained. The Treasurer of the Territory shall pay out of said funds all orders and drafts for money to be expended under the provisions of this act, such orders or drafts to

be drawn by the Territorial Auditor, on certificate of the Secretary, countersigned by the President of the board. No such certificates shall be given except upon accounts audited and allowed by the board at their regular meetings.

§ 13. PAYMENT OF SALARIES, ETC.] Services and all other necessary traveling expenses, as hereinafter provided, incurred by the board of education in carrying out the provisions of this act, shall be paid on the proper certificate, out of any funds belonging to said institution in the hands of the Treasurer. Until the erection and completion of the necessary buildings, the principal, assistants, teachers, board of education and other officers employed in said school shall be paid out of the Normal School fund; and from the receipts of tuition after the erection of the necessary buildings. The members of the board of education shall be entitled to three dollars per day and ten cents for each mile necessarily traveled in attending the meetings of the board.

§ 14. GOVERNOR TO APPOINT.] That it shall be the duty of the Governor to fill by appointment all vacancies that may from any cause occur in the board of education of the Territorial Normal School, and he may from neglect of duty or any violation of the trust reposed or the arbitrary exercise of the power conferred, remove any member of said board and appoint a suitable person in his stead.

§ 15. REGULAR MEETINGS.] The board of education shall hold two regular meetings in each year, viz: During the first week in June and the first week in January in each year, at which first meeting the officers of the board shall be elected. All meetings of the board shall, when practicable be in the Normal School building and all financial matters, allowances, claims and accounts shall be disposed of at such regular meetings only. Special meetings of the board may be called upon written order of the president of the same, which order shall specify the object of the meeting. An adjournment may be had from a regular or special meeting, but the journal must in either case state the reasons in full for the same. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept at any reasonable time (open) to the inspection of any member of the board.

§ 16. REPORT] The clerk of the board of education shall on the first day of January of each year, transmit to the Governor a full report of the expenditures of the same for the previous year setting forth in full each item and the date thereof.

§ 17. No RELIGIOUS TESTS.] The board of education in their regulations and the principal in his supervision and government of the schools shall exercise a watchful guardianship over the

morals of the pupils at all times during their attendance on the same. But no religious or sectarian tests shall be applied in the selection of teachers, and none shall be adopted in the school.

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

Approved, March 9, 1883.

CHAPTER 19.

SPEARFISH—ACT REVIVED.

AN ACT to Revive and Re-enact Chapter One Hundred of the Session Laws of 1881, Entitled An Act to Locate, Establish and Endow a Territorial Normal School.

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

§ 1. ACT REVIVED.] That chapter one hundred of the session laws of 1881 of the Territory of Dakota, entitled "An act to locate, establish and endow a Territorial Normal School," be and the same is hereby revived and re-enacted and continued in force.

§ 2. EXTENSION OF TIME.] The time provided in section one (1) of said act, for donating and securing to the Territory the land mentioned in section one of said act, is hereby extended under the provisions of said act, for six months from the taking effect of this act.

§ 3. REGULAR AND SPECIAL MEETINGS.] That section 16 of said chapter 100, be, and the same is, hereby stricken out and the following is inserted in lieu thereof as said section 16:

The board of education shall hold four regular meetings in each year, viz: during the first week in April, the first week in July, the first week in October, and the first week in January in each year, at which second meeting the officers of the board shall be elected. All meetings of the board shall be held at Spearfish, and when practicable, in the Normal School building. All financial matters, allowances, claims and accounts shall be disposed of at such regular meetings only. Special meetings of the board may be called upon the written order of the president of the same, which order shall specify the object of the meeting. A majority

of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept subject at any reasonable time to the inspection of any member of the board.

ENDORSED.—Received at Executive Office, February 27, 1883, at 2:30, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

CHAPTER 20.

SPEARFISH—FORMER ACT AMENDED.

AN ACT to Amend Sections One and Sixteen, Chapter One Hundred of the Session Laws of 1881, Being Entitled "An Act to Locate, Establish and Endow a Territorial Normal School."

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

§ 1. NORMAL SCHOOL ESTABLISHED AT SPEARFISH.] That section one, chapter one hundred of the Session Laws of 1881, be amended as follows, to-wit :

That a Normal School for the Territory of Dakota, be established at Spearfish, in Lawrence county, Territory of Dakota, the exclusive purpose of which shall be the instruction of persons, both male and female, in the art of teaching, and in all the various branches that pertain to a good common school education ; also to give instruction in the mechanical arts, and in husbandry, and agricultural chemistry, in the fundamental laws of the United States, and in what regards the rights and duties of citizens :

Provided, That a tract of land, not less than forty acres, adjacent to said town of Spearfish, be donated and secured to the Territory of Dakota, in fee simple, as a site for said Normal School, within six months from the taking effect of this amendment, and the

Governor of the Territory is hereby empowered and it is made his duty to see that a good and sufficient deed, so far as can be, be made to the Territory for the same.

§ 2. REGULAR AND SPECIAL MEETINGS.] That section sixteen of same chapter, be amended to read as follows, to-wit:

The board of education shall hold four regular meetings in each year, viz: during the first week in April, the first week in July, the first week in October, and the first week in January in each year, at which second meeting the officers of the board shall be elected. All meetings of the board shall be held at Spearfish, and when practicable, in the Normal School building. All financial matters, allowances, claims and accounts, shall be disposed of at such regular meetings only. Special meetings of the board may be called upon the written order of the president of the same, which order shall specify the object of the meeting. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept subject at any reasonable time, to the inspection of any member of the board.

ENDORSED.—Received at Executive Office, February 12, 1883, at 12:40, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

CHAPTER 21.

SPEARFISH—APPROPRIATION.

AN ACT Making Appropriations for the Purpose of Constructing and Furnishing a Building for the Territorial Normal School at Spearfish, D. T., and for other Purposes.

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

§ 1. APPROPRIATION.] That there is hereby appropriated out of the funds in the territorial treasury, not otherwise appropriated, for the purpose of constructing and furnishing a building for the

Territorial Normal School at Spearfish, D. T., the sum of five thousand dollars. For salary of principal and teachers, fuel, etc., the sum of two thousand dollars for the period of two years.

§ 2. DUTY OF AUDITOR.] It shall be the duty of the auditor of the Territory, upon the application of the board of education of said Normal School, or a majority thereof, to draw warrants on the Territorial Treasurer for the purpose of carrying out the provisions of this act.

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

Approved, March 9, 1883.

CHAPTER 22.

SPRINGFIELD—ACT AMENDED.

AN ACT to Amend An Act Entitled An Act to Locate, Establish and Endow a Territorial Normal School.

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

§ 1. ESTABLISHED AT SPRINGFIELD.] That section 1, chapter 101 of the Session Laws of 1881, be amended as follows, to-wit:

That a Normal School for the Territory of Dakota, be established at Springfield, Bon Homme County, Territory of Dakota, the exclusive purpose of which shall be the instruction of persons, both male and female, in the art of teaching and in all the various branches that pertain to a good common school education; also to give instruction in the mechanical arts, and in husbandry and in agricultural chemistry, in the fundamental laws of the United States, and in what regards the rights and duties of citizens:

Provided, That a tract of land not less than twenty acres, adjacent to the said town of Springfield be donated and secured to the Territory of Dakota, in fee simple, as a site for said Normal School, within three months from the taking effect of this amendment; and the Governor of the Territory is hereby empowered, and it is his duty to see that a good and sufficient deed be made to the Territory for the same.

§ 2. REGULAR AND SPECIAL MEETINGS.] That section 18 of same chapter be amended to read as follows, to-wit:

1883.—42

The board of education shall hold four regular meetings in each year, viz: During the first week in January, and the first week in April, the first week in July and the first week in October, in each year at which second meeting the officers of the board shall be elected. All meetings of the board shall be held in the village of Springfield, and when practicable be in the Normal School building, and all financial matters, allowances of claims and accounts shall be disposed of at such regular meetings only. Special meetings of the board may be called upon written order of the president of the same, which order shall specify the object of the meeting. An adjournment may be had from a regular or special meeting, but the journal must in either case state the reason in full for the same. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept at any reasonable time open to the inspection of any member of the board.

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

ENDORSED.—Received at Executive Office, February 7, 1883, at 12:40, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

GEO. H. HAND,
Secretary of the Territory.

Notary Public.

CHAPTER 23.

VALE P. THIELMAN.

AN ACT to Legalize the Acts of Vale P. Thielman as Notary Public of the Territory of Dakota.

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

§ 1. ACKNOWLEDGMENTS, ETC., LEGALIZED.] That all acknowledgments of deeds, mortgages and other instruments in writing, and all oaths administered by and affidavits taken before Vale P.

Thielman as notary public of the Territory of Dakota, between the 22d day of November, 1879, and the 6th day of March, 1883, are hereby legalized; and such acknowledgments and affidavits shall have the same force and effect as if the said Vale P. Thielman as such notary public was duly authorized to take and certify acknowledgments of deeds, mortgages and other instruments in writing, and to take and certify to the administering of oaths and affidavits, by the laws of this Territory.

§ 2. SAME.] That all deeds, mortgages and other instruments in writing, acknowledged before said Vale P. Thielman, as notary public, between the dates aforesaid, which now are or shall be hereafter placed on record, shall and they are hereby declared to be duly recorded, and shall be notice to all persons the same as though said deeds, mortgages and other instruments had been acknowledged before and certified by an officer competent to take and subscribe acknowledgments under the laws of this Territory.

§ 3. SAME.] That deeds, mortgages and other instruments in writing, the acknowledgment of which have been taken and certified by and before Vale P. Thielman, as notary public of this Territory, between the 22d day of November, 1879, and the 6th day of March, 1883, are hereby declared to be acknowledged and certified, and the record of the same shall be as valid and binding, in law and equity, as though the same had been acknowledged before some officer duly authorized by the laws of this Territory to take and certify acknowledgments of deeds, mortgages and other instruments in writing.

§ 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed so far as they apply to the cases herein provided for by this act.

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

Approved, March 9, 1883.

Names of Towns.

CHAPTER 24.

HILL CITY AND CLARE.

AN ACT to Change the Name of Certain Towns in Traill and Walsh Counties.

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

§ 1. HILL CITY CHANGED TO HILLSBORO.] That the name of Hill City in Traill County, Dakota Territory, as platted and laid out and of record, in the office of the register of deeds, within and for said county of Traill, be, and the same is changed to Hillsboro.

§ 2. CLARE CHANGED TO ARDOCK.] That the name of "Clare," in Walsh County, Dak. Ter., as platted and laid out and of record in the office of the register of deeds within and for said county of Walsh, be, and the same is hereby changed to Ardock

§ 3. This act shall not affect any transfer of town lots in either of said towns prior to the passage of this act.

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

Approved March 7, 1883.

Reform School.

CHAPTER 25.

AT PLANKINTON.

A BILL For An Act Entitled An Act to Locate and Establish a Reform School for Juvenile Offenders, at or near the Village of Plankinton, in Aurora County, Dakota Territory.

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

§ 1. LOCATION.] A Reform School shall be permanently located at Plankinton, in Aurora County, Dakota, and be maintained for the reformation of such boys and girls under the age

of eighteen years who may be committed to it as hereinafter provided.

§ 2. TRUSTEES.] There shall be a board of trustees, whose name and style shall be "The Board of Trustees of the Dakota Reform School," which shall consist of three persons, who shall be nominated by the Governor and confirmed by the Legislative Council, and who shall hold office for the term of two years, and until their successors are chosen and qualified; and such trustees shall, before entering upon the discharge of their duties, take and subscribe an oath or affirmation to support the Constitution of the United States and the Organic Act of this Territory, and faithfully discharge the duties required of them by law.

§ 3. COMPENSATION.] The members of said board shall receive no compensation except the sum of three dollars per day while engaged in the transaction of the business of said board, and their actual traveling expenses; the amount due each trustee to be certified by the president and secretary of the board.

§ 4. OFFICERS AND DUTIES.] Said board of trustees shall from their board appoint a president, secretary and treasurer, and shall take charge of the general interests of the institution; shall have power to enact by-laws and rules for the regulation of all its concerns not inconsistent with the laws of this Territory; to see that its affairs are conducted in accordance with the requirements of law, and that strict discipline is maintained therein; to provide employment and instruction for the inmates; to appoint a superintendent, a steward, a teacher or teachers, and such other officers as in their judgment the wants of the institution may require, and prescribe their duties; to exercise a vigilant supervision over the institution, its officers and inmates, and determine the salaries to be paid to the officers and order their removal upon good cause; and shall also require the treasurer to execute a bond to the Territory of Dakota in a sufficient amount to be approved by the Legislative Council and filed in the office of the Secretary of the Territory.

§ 5. INSTRUCTION OF INMATES.] They shall cause the boys and girls under their charge to be instructed in piety and morality, and in such branches of useful knowledge as are adapted to their age and capacity, and in some regular course of labor, either mechanical, manufacturing or agricultural as is best suited to their age, strength, disposition and capacity, and as may seem best adapted to secure the reformation and future benefit of such boys and girls.

§ 6. POWER OF TRUSTEES TO APPRENTICE INMATES.] The trustees, with the consent in writing of their parents or guardians, as the case may be, or in case they have no parents or guardians,

may bind out boys and girls committed to the school, until they attain their majority, or for any less time, stipulated in the indentures, for the needful amount of education, and from time to time, as the rightful guardians of the boys and girls ascertain whether the duties and obligations of the person to whom the boy or girl is bound are faithfully performed, and if not, cancel the indenture and receive the boy or girl into the school again.

§ 7. EXAMINATION OF RECORDS.] When there shall be twenty or more boys in the school, one or more of the trustees shall visit the school once in every month and examine the boys and girls in their school room and labor, and inspect the register and accounts of the superintendent. A record shall be kept of these visits in the books of the superintendent. Once in every year, or oftener if the trustees think it necessary, they shall examine the school in all its departments, including the accounts, vouchers and documents of the superintendent, and prepare a report on the condition of the institution on the first Monday in November preceding the meeting of the Legislative Assembly, which, together with a full report of the superintendent, and a list of the officers and employes and their salaries, with an estimate of the value of the personal property belonging to the school, shall be laid before the Legislative Assembly

§ 8. WHO TO HAVE CHARGE.] The superintendent, with such subordinate officers as the trustees may appoint, shall have the charge and custody of the boys and girls; he shall discipline, govern, instruct, employ, and use his best endeavors to reform the inmates in such manner as, while preserving their health, will secure the promotion, as far as possible, of moral, religious and industrious habits, and regular, thorough progress and improvement in their studies, trades and employment.

§ 9. BOND AND RESPONSIBILITY OF SUPERINTENDENT.] He shall, before entering upon his duties, give a bond [to] the Territory, with sureties [for] the amount, and sureties to be satisfactory to the board of trustees, conditioned that he shall faithfully perform all his duties, and account for all money received by him as superintendent, which bond shall be filed in the office of [the] Secretary of the Territory; he shall have charge of all the property of the institution within the precincts thereof; he shall keep in suitable books complete accounts of all his receipts and expenditures, and of all property intrusted to him, showing the income and expenses of the institution, and in such manner as the trustees may require, for all money received by him. His books and documents relating to the school, shall, at all times, be open to the inspection of the trustees. He shall keep a register containing the name, age and circumstances connected with the early history of each boy and

girl, and shall add such facts as shall come to his knowledge relating to his or her history while at the institution and after leaving it.

§ 10. POWER OF DISTRICT COURT.] When a boy or girl under the age of eighteen years, shall, in any court of record, be found guilty of any crime excepting murder, the said court may, if in its opinion the accused is a proper subject therefor, instead of entering judgment, cause an order to be entered that said boy or girl be sent to the State Reform School pursuant to the provisions of this chapter, and a copy of said order duly certified by the clerk, under the seal of said court, shall be sufficient warrant for carrying said boy or girl to the school, and for his or her commitment to the custody of the superintendent thereof.

§ 11. DUTY OF JUSTICE IN CERTAIN CASES.] When a boy or girl under the age of eighteen shall be convicted before a justice of the peace, or other inferior courts, of any crime, or of being a disorderly person, it shall be lawful for the magistrate, before whom he or she may be convicted, to forthwith send such boy or girl, together with all the papers filed in his office on the subject, under the control of some officer, to a judge of a court of record, who shall then issue an order to the parent or guardian of said boy or girl, or such person as may have him or her in charge, or with whom he or she has last resided, or one known to be nearly to him or her, or if he or she be alone and friendless, then to such person as said judge may appoint to act as guardian, for the purposes of the case, requiring him or her to appear at a time and place stated in said order, to show cause why said boy or girl should not be committed to the reform school for reformation and instruction.

§ 12. ORDER, HOW SERVED.] Said order shall be served by the sheriff or other officer, by delivering a copy thereof, personally, to the party to whom it is addressed, or leaving it with some person of full age, at the place of residence or business of said party, and immediate return shall be made to said judge of the time and manner of such service. The fees of the sheriff or other officer, under this chapter, shall be the same as now allowed by law for like services.

§ 13. PROCEEDINGS BEFORE JUSTICE.] At the time and place mentioned in said order, or at the time and place to which it may be adjourned, if the parent or guardian to whom said order may be addressed shall appear, then in his or her presence, or if he or she shall fail to appear, then in the presence of some suitable person whom the said judge shall appoint as guardian for the purposes of case, it shall and may be lawful for said judge to proceed to take the voluntary examination of said boy or girl, and to hear the statements of the party appearing for him or her, and such testi-

mony in relation to the case as may be produced, and if upon such examination and hearing the said judge shall be satisfied that the boy or girl is a fit subject for the State Reform School, he may commit him or her to said school by warrant.

§ 13. [14.] SAME.] The judge shall certify in the warrant the place in which the boy or girl resided at the time of his or her arrest, also his or her age, as near as can be ascertained, and command the said officer to take the said boy or girl and deliver him or her, without delay, to the superintendent of said school, or other person in charge thereof at the place where the same is established; and such certificate, for the purpose of this chapter, shall be conclusive evidence of his or her residence or age. Accompanying this warrant the judge shall transmit to the superintendent by the officer executing it, a statement of the nature of the complaint, together with such other particulars concerning the boy or girl as the judge is able to ascertain.

§ 4. [15.] DISCRETIONARY POWER OF JUSTICE] If the judge is of the opinion that the boy or girl is not a fit subject for the school, or if said boy or girl shall appeal from the decision of the court in which the conviction was had, he shall remand him or her to the custody of the officer who had him or her in charge, to be returned to the magistrate before whom the conviction was had to be dealt with according to law.

§ 15. [16.] WHEN PARENT OR GUARDIAN MAKES COMPLAINT.] If any parent or guardian shall make complaint to a judge of a court of record, that any boy or girl, the child or ward of such parent or guardian, is habitually vagrant or disorderly, or incorrigible, it shall and may be lawful for said judge to issue a warrant, to have the sheriff or constable to cause said boy or girl to be brought before him at such time and place as he may appoint, when and where said judge shall examine the parties, and if in his judgment the boy or girl is a fit subject for the reform school, he may issue an order, with the consent of said parent or guardian endorsed thereon, to be executed by a sheriff or constable, committing said boy or girl to the custody of the superintendent of said school for reformation and instruction till he shall attain the age of majority;

Provided, That security for the payment of the expenses of said complaint, commitment and carrying boy or girl to the Reform School, and the expenses of board at such school, may, in the discretion of said judge, be required of said parent or guardian.

§ 16. [17.] TERM OF COMMITMENT.] No boy or girl shall be committed to said Reform School for a longer term than until he or she attain the age of majority, but the said trustees by their order may, at any time after one year's service, discharge a boy or

girl from said school as a reward of good conduct in the school, and upon satisfactory evidence of reformation.

§ 17. [18.] SAME.] Any boy or girl committed to the State Reform School shall be there kept, disciplined, instructed, employed and governed under the direction of the trustees until he or she arrives at the age of majority or is bound out, reformed, or *or* legally discharged. The binding out or discharge of a boy or girl as reformed or having arrived at the age of majority, shall be a complete release from all penalties incurred by conviction of the offense for which he or she was committed.

§ 18. [19.] DISPOSITION OF INCORRIGIBLE INMATE.] If any boy or girl, convicted of a felony, committed to the Reform School, shall prove unruly or incorrigible, or if his or her presence shall be manifestly and persistently dangerous to the welfare of the school, the trustees shall have power to order his or her removal to the county from which he or she came and delivery to the jailor of the said county, and proceedings against him or her shall [be] resumed as if no warrant or order committing him or her to the Reform School had been made.

§ 19. [20.] PENALTY FOR AIDING ESCAPE, ETC.] Every person who unlawfully aids or assists any boy or girl lawfully committed to the Reform School in escaping or attempting to escape therefrom, or knowingly conceals such boy or girl after his or her escape, shall be punished by fine not exceeding one thousand dollars and imprisonment in the penitentiary not exceeding five years.

Approved, March 9, 1883.

Deaf and Dumb.

CHAPTER 26.

ESTABLISHING DEAF AND DUMB INSTITUTE.

A BILL For An Act Establishing the Dakota School for Deaf Mutes, and Providing for the Government and Maintenance of the Same.

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

§ 1. ESTABLISHED AT SIOUX FALLS.] The Dakota school for deaf mutes is hereby established and located on the southwest quarter of section No. 15, in township No. 101, range No. 49, in

the county of Minnehaha, and within the corporate limits of the city of Sioux Falls, Dakota Territory, and shall be under the charge of a board of trustees to consist of five residents of this Territory.

§ 2. TRUSTEES, HOW APPOINTED.] The Governor shall, by and with the advice and consent of the council, appoint said trustees, whose term of office shall be for two years and until their successors are appointed and qualified.

§ 3. OATH OF TRUSTEES.] The trustees so appointed before entering upon their duties shall take and subscribe an oath to support the Constitution of the United States and the Act organizing the Territory of Dakota, and to faithfully, honestly and impartially discharge the duties of trustees of the Dakota school for deaf mutes, which oath shall be filed with the Secretary of the Territory.

§ 4. MILEAGE OF TRUSTEES.] The trustees shall receive no compensation for any service, but shall be entitled to ten cents per mile going and returning necessarily traveled in attendance upon meetings of the board. Upon the presentation of the proper vouchers containing statement of mileage traveled in attendance upon said meetings, duly signed by the president of the board of trustees and countersigned by the secretary of the board, the Territorial Auditor shall draw his warrant upon the Territorial Treasurer therefor to be paid out of the territorial treasury.

§ 5. MEETINGS OF TRUSTEES.] The board of trustees shall hold an annual meeting upon the first Wednesday of December, each year, at the school, at which meeting they shall choose a president, a secretary and a treasurer, who shall be different persons and from among the members of the board. The board may hold such additional meetings as may be deemed necessary on the call of the president or secretary.

§ 6. DUTIES OF THE BOARD.] The object and duty of the board of trustees shall be to continue and maintain the school for the education of the deaf and dumb established and located at Sioux Falls, and to accord to that unfortunate class, so far as possible, enlightened and practical education that may aid them to obtain the means of subsistence, discharge the duties of citizens and secure all the happiness which they are capable of obtaining.

§ 7. SAME.] It shall be the duty of said board :

1. To preserve and care for the buildings, grounds and all the property belonging to the school.

2. To employ a superintendent and matron, both of whom shall be skilled in the use of the sign language, and capable and efficient in the instruction, management and care of the deaf and dumb *of the deaf and dumb* ; and the matron shall not be the wife

of the superintendent or any teacher or officer of the school; to prescribe the duties of the superintendent and matron and to fix their compensation.

3. To prescribe such charges for board, tuition and care of pupils received from without the Territory, as will be sufficient, at least, to pay all expenses thereof, and collect all such charges fixed by them.

4. To faithfully apply all funds, effects and property which may be received for the use and benefit of the school.

5. To report to the Governor biennially in the month of December preceding the meeting of each regular session of the Legislature; said report shall contain an account of the school during the period of two years ending the thirtieth day of November preceding, and all matters of interest connected therewith, and a detailed statement of all receipts and disbursements of funds during such years and of all funds in their charge.

6. To fix the period of the academic year of said school, which period shall be not less than forty weeks.

§ 8. LIABILITY OF TRUSTEES.] The trustees for the time being shall be severally liable for the faithful application of all property, funds and effects which may be received for the use and benefit of the school; and property, funds and effects received by gift, grant, donation, devise or bequest, shall be applied as directed by the person from whom received.

§ 9. PUPILS.] All deaf and dumb persons, residents of this Territory, over six years of age and under twenty-one years of age, capable of receiving instruction, free from contagious or chronic disease, shall be received and taught, free of charge. Like pupils may be received from without this Territory upon payment to the treasurer of the board of trustees, quarterly in advance at the rate of one hundred and eighty dollars per academic year; but no pupil from without the Territory shall ever be received to the exclusion of any pupil resident within this Territory from any of the privileges or benefits of the school. All pupils shall freely and equally enjoy all the benefits and privileges of the school, and have the use of the library and books of tuition, and receive board, washing, lodging, attendance, medical care, fuel, etc., etc., without preference or distinction. And all pupils shall be treated with the most considerate regard for their misfortune, and always with kindness and humanity, and the board shall carefully enforce this provision.

§ 10. NO TRUSTEE TO BE INTERESTED IN CONTRACT.] No trustee or officer of the school shall be interested either directly or indirectly in any contract for the purchase of building materials, supplies, or any other articles for the use of the school.

§ 11. TRUSTEE NOT ELIGIBLE TO SUPERINTENDENCY—OFFICERS.]
No trustee shall be eligible to the office of superintendent of the school during the term of office for which he was appointed. That the trustees appointed under this act shall meet within thirty days after their appointment and organize by choosing from their number a president, secretary and treasurer, to hold their respective offices until the annual meeting in December, or until their successors are elected and qualified.

§ 12. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, March 9, 1883.

CHAPTER 27.

TO PROVIDE FUNDS FOR BUILDING.

A BILL For An Act to Provide Funds for the Construction and Furnishing of a Main Building for the Dakota School for Deaf Mutes, and for other purposes.

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

§ 1. BONDS TO BE ISSUED.] That for the purpose of providing funds to pay the cost of erecting and furnishing a main building for the Dakota school for Deaf Mutes at Sioux Falls, Dakota Territory, the Territorial Treasurer is hereby authorized and empowered and it is made his duty to prepare for issue twelve thousand dollars of Territorial bonds running for a term or period of twenty years, and payable at the option of the Territory after a term of ten years, and bearing interest at the rate of six per cent. per annum with coupons attached made payable semi annually on the first day of July and January each year. Such bonds shall be executed under the seal of the Territory by the Governor and Treasurer and shall be attested by the Secretary and shall be negotiated by the Treasurer of the Territory.

§ 2. PROPOSALS FOR SALE OF BONDS.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, and upon request of the board of trustees of said school, he shall give public notice for thirty days in two newspapers of

general circulation, one of which shall be published in the city of New York, and said bonds shall be sold to the highest bidder for cash.

§ 3. BOND TAX.] For the purpose of the prompt payment of principal and interest of the bonds herein provided there shall be levied by the Territorial board of equalization at the time the other taxes are levied and collected in the same manner as other Territorial taxes are collected, such sums as shall be sufficient to pay such interest and exchange thereon, and after nine years from the first day of May, 1883, in addition thereto a sinking fund tax shall be annually levied sufficient to retire and pay such bonds at their maturity, and it shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year such interest as shall then be due, and to purchase said bonds at their market value and retire and cancel the same with the sinking fund tax as fast as the same be received, and no tax or fund provided for the payment of such bonds, either principal or interest shall at any time be used for any other purpose.

§ 4. INTEREST MAY BE PAID FROM OTHER FUNDS.] If for any reason the Territorial Treasurer shall not have in his hands sufficient funds herein provided to pay the interest upon such bonds when due, he shall pay such interest out of any other unappropriated fund belonging to the Territory, and there is hereby appropriated and set apart out of the general funds belonging to the Territory a sum sufficient to pay such interest on said bonds as may become due before the funds and tax therein provided can be made available; and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due out of said funds.

§ 5. REPLACING FUNDS.] All moneys belonging to the general Territorial fund applied by said Treasurer in payment of the interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 6. WHEN TO COMMENCE CONSTRUCTION.] And the board of trustees of said school are hereby empowered and directed within ninety days after this act becomes a law, to proceed with the cooperation of the Governor of the Territory, to secure and adopt plans for, and commence the construction of said main building, and after the same is completed or to be occupied, to contract for and to purchase suitable furniture and fixtures for the same. Said main building to be a stone or brick substantial building. And there shall be expended in the erection of the same as herein provided, out of the proceeds of said bonds, not less than the sum of ten thousand dollars. Said board of trustees shall make a full and detailed report of their expenditures and action under this act to the next Territorial Legislative Assembly.

§ 7. APPROPRIATION.] There is hereby appropriated out of the Territorial Treasury all the funds realized by the sale of the bonds provided for in this act. And it shall be the duty of the Auditor of the Territory upon the application of the board of trustees or a majority thereof of said school for deaf mutes, to draw on the Territorial Treasurer for the purpose of constructing and furnishing said main building and for the purpose of carrying out the provisions of the aforesaid act.

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

Approved, March 9, 1883.

Penitentiary.

CHAPTER 28.

SIOUX FALLS—APPROPRIATIONS.

AN ACT Making Appropriations for the Current and Contingent Expenses of the Territorial Penitentiary.

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

§ 1. APPROPRIATIONS FOR PAY OF WARDEN, ETC., AND SUSTENANCE OF PRISONERS.] That the following sums be, and they are, hereby appropriated out of any money in the territorial treasury not otherwise appropriated for the purpose of paying the current and contingent expenses of the Territorial Penitentiary, namely:

For pay of the warden, four thousand dollars; *Provided*, That the person appointed to the office of warden shall possess the qualifications of an office-holder, as prescribed in section 47 of chapter 27 of the Political Code.

For the pay of physician and medicines, one thousand dollars.

For pay of officers, guards, overseers and watchman, twenty six thousand five hundred dollars.

For maintenance of prisoners and for board of officers and employes, twenty-three thousand four hundred dollars.

For the necessary lights, fuel, pay of directors and clothing for prisoners, eleven thousand nine hundred and seventy-five dollars.

For temporary stable, teams and farming implements, two thousand five hundred dollars.

For clothing, cash and transportation of discharged convicts, one thousand seven hundred and fifty dollars.

For incidental expenses of the penitentiary, four thousand dollars.

For temporary yard-wall at the penitentiary building, one thousand five hundred dollars.

For furnishing residence of the warden, one thousand dollars.

2. WARDEN TO MAKE ESTIMATE.] That it is made the duty of the warden, and he is hereby required, to make out and present to the directors of the penitentiary a detailed estimate of the amount of money necessary to meet the current expenses of the prison for the next ensuing month, and upon presentation of said estimate to the Territorial Auditor, duly approved and certified to be correct by the board of directors of said penitentiary, or a majority of them, the Auditor shall draw a warrant upon the Treasurer for the amount of said estimates so certified and approved, in favor of the warden of said penitentiary.

ENDORSED.—Received at Executive Office, February 26, 1883, at 3:30, P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

Geo. H. HAND,
Secretary of the Territory.

CHAPTER 29.

SIOUX FALLS—AUTHORIZING ISSUE OF BONDS.

AN ACT Authorizing the Issue of Bonds for the Purpose of Making Permanent Improvements at the Territorial Penitentiary, and to Purchase or Lease Additional Land for a Stone Quarry.

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

§ 1. BONDS AUTHORIZED FOR CERTAIN IMPROVEMENTS.] For the purpose of providing funds to pay the costs of making necessary improvements at the Territorial Penitentiary, to-wit:

Constructing a building for a boiler-house, laundry, hospital and female prison, eight thousand dollars.

A residence for the warden, six thousand dollars.

Furnishing and finishing the upper story of the main building, twenty-five hundred dollars.

Providing steam-heating and plumbing for said buildings, thirty-five hundred dollars.

Purchasing or leasing additional land for stone quarry, three thousand dollars.

Providing machinery and tools, five thousand dollars.

Constructing yard-wall at quarry, two thousand dollars.

The Territorial Treasurer is hereby authorized and empowered, and it is made his duty, to prepare for issue thirty thousand dollars of territorial bonds, running for a period of twenty years and payable at the option of the Territory at any time after five years from the date of the same, and bearing interest at the rate of six per cent. per annum, with coupons attached, made payable semi-annually on the first day of July and January in each year, in denominations of not less than one hundred dollars each.

§ 2. BONDS, HOW EXECUTED.] Such bonds shall be executed for the Territory and under the seal thereof by the Governor and Treasurer, shall be attested by the Secretary and shall be negotiated by the Treasurer.

§ 3. PROPOSALS FOR BONDS.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, after giving notice for thirty days in two newspapers in general circulation, one of which shall be published in the Territory and the other in the city of New York, and shall sell to the person paying par, or the highest premium above par, the whole thirty

thousand dollars of bonds, or such part thereof as may in the judgment of the directors of said penitentiary and the Governor of the Territory, be deemed necessary.

§ 4. BOND TAX.] For the purpose of the prompt payment of principal and interest of the bonds herein provided there shall be levied by the territorial board of equalization at the time the other taxes are levied, and collected in the same manner as other territorial taxes are collected, such sums as shall be sufficient to pay such interest and the exchange thereon; and after ten years from the first day of May, 1883, in addition thereto, a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity, and it shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year, such interest as shall then be due, and to purchase said bonds at their market value, and retire and cancel the same with the sinking fund tax as fast as the same shall be received. And no tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose.

§ 5. INTEREST PAID FROM OTHER FUNDS—WHEN.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided to pay either principal or interest upon such bonds when due, he shall pay such interest or principal out of any other unappropriated fund belonging to the Territory. And there is hereby appropriated and set apart out of the general funds belonging to the Territory a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided can be made available, and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due, out of said funds.

§ 6. REPLACING FUNDS.] All money belonging to the general territorial fund, appropriated by said Treasurer in payment of either principal or interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 7. IMPROVEMENTS, HOW TO BE MADE.] That the work and improvement specified in the first section of this act may be done under contract, let to the lowest responsible bidder, after thirty days notice printed in two or more newspapers published in the Territory, provided the person or persons to whom said contract or contracts may be let, shall give bonds for the faithful performance of the contract or contracts in such sum or sums as the Governor and directors may require; or the said directors may construct said buildings or any portion thereof, or do and perform any of said work by or with the aid of the labor of the convicts of said prison as in the judgment of the Governor and directors of said penitentiary may be thought advisable and for the public interest

§ 8. PAYMENTS, HOW MADE.] All payments for labor done or material furnished shall be made upon a statement certified and approved by the board of directors or a majority of them. Upon such statement the Auditor shall draw a warrant upon the Territorial Treasurer for the amount stated and certified to be due.

§ 9. APPROPRIATION.] For the purpose of performing and accomplishing the work and making improvements mentioned in this act, there is hereby appropriated out of the territorial treasury the sum of thirty thousand dollars, or so much thereof as may be necessary, being the proceeds of the bonds hereby authorized to be issued and negotiated, and the proceeds of said bonds shall not be used for any other purpose whatever.

§ 10. DEBT, IN CASE OF DIVISION.] That part of the Territory of Dakota in which the penitentiary is or may be situated, shall, on the division of the Territory, assume all debts and liabilities arising and existing under the provisions of this act.

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

Approved, March 9, 1883.

CHAPTER 30.

BISMARCK—PROVIDING FOR THE ERECTION AND GOVERNMENT OF A TERRITORIAL PENITENTIARY.

AN ACT to Provide for the Building and Government of a Territorial Penitentiary for Dakota at Bismarck.

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

§ 1. WHERE ESTABLISHED.] That a Penitentiary of the Territory of Dakota shall be erected and continually maintained for the care and custody of convicts in Dakota, or of such thereof as may be assigned or sentenced thereto, on a tract of land hereafter to be selected by the directors provided for in this act, within the corporate limits of the city of Bismarck, in the county of Burleigh, Dakota Territory, or within a radius of one mile of the corporate limits of said city.

§ 2. BOARD OF DIRECTORS.] That said Penitentiary shall be erected and constructed under the direction and government of a board of directors composed of six persons, who shall be appointed by the Governor of the Territory with the advice and consent of the Council. Said directors shall hold their offices respectively, except those appointed to the first board, for the term of six years, or until their successors are elected and qualified unless sooner removed by the Governor upon specific charges, and in case a vacancy shall occur in the position of directors such vacancy shall be filled by the Governor of the Territory, which person so appointed shall hold his position until the end of the next Legislature thereafter, unless a new appointment and confirmation shall sooner be made.

§ 3. GOVERNOR TO APPOINT.] Immediately upon the passage of this act it shall be the duty of the Governor to appoint the members of the first board of directors, two of whom he shall appoint for two, two for four, and two for six years, and at every session of the Legislative Assembly thereafter;

Provided, That said body shall not meet oftener than once in two years, shall appoint two directors as provided in section two of this act.

§ 4. DIRECTORS TO CONTRACT FOR BUILDING.] That such directors shall immediately proceed to contract for the erection of a suitable building for a Penitentiary, which shall accommodate from one hundred to one hundred and fifty persons, at a cost for said building and fixtures complete not to exceed fifty thousand (\$50,000.00) dollars, upon the tract of land which may be selected as provided for in section one of this act, and for that purpose shall advertise for plans and specifications for a suitable building for a Penitentiary, which plans may or may not be accompanied with the price for which the projector will perform the work and erect the said building. From the plans so furnished, if the directors shall deem it best, or from any other plans furnished, they shall select a plan for a Penitentiary building. After said plan shall be selected the same shall be placed on file in the office of the Treasurer of the Territory, or at such other public place which said Treasurer may designate, and be open for inspection for four weeks, during which time parties desiring to make proposals to erect the said building on the plan so selected and placed on file as aforesaid, shall submit the same to the said directors, together with the names of parties who will guarantee that if the proposal be accepted, the work shall be performed according to the plans and specifications so selected, and under such contract as may be required by said board. At the expiration of the time aforesaid and on a day of which public notice shall be given, the

said board of directors shall, in a public manner open said bids and award the contract to the lowest responsible bidder;

Provided, however, That they shall reserve the right to reject any and all bids, and again advertise for proposals, or erect said building under their own direction and management if they shall deem best.

§ 5. MATERIAL TO BE USED.] That the walls of said building containing the cells and of the prison yard of said Penitentiary, shall be constructed of good substantial stone or brick masonry, and the cells shall be lined with, or made of suitable iron, if thought necessary by the directors; and they shall be of suitable size, and the material used shall be examined by said directors, and they shall reject all material which they may deem unsuitable.

§ 6. CONTRACT—WHAT TO STIPULATE.] The contract shall stipulate, that the walls shall be constructed of stone, of suitable size and fine texture or of brick as aforesaid, and shall be laid in good cement, and that all other material shall be of good quality of the classes specified, and that the work of erection shall be constantly prosecuted, and that the said building, erection and enclosure shall be completed according to the said contract and the plans and specification aforesaid, and the whole building and work completed within one year from the date of letting said contract.

§ 7. PARTIAL PAYMENT.] The directors, as the work progresses, on application of the contractor, shall certify to the Auditor of the Territory the value of the work done on the building at the time, and on such certified statement, the Auditor shall issue a Penitentiary warrant on the Treasurer of the Territory for a sum not exceeding eighty per cent. of the value of the work so certified to have been done, which warrants shall be paid out of the fund appropriated by section one of this act.

§ 8. REPORT OF DIRECTORS.] The directors shall make a full and complete report to the Governor, to be by him communicated to the Legislature at each session, of all their doings, specifying the amount paid to each person, for what service or material the same was paid, and shall also give in detail a statement of the transactions of the Penitentiary for the preceding year including the receipts from all sources, all expenditures, and all other matters pertaining to the general business, construction and discipline of the Penitentiary; also a full statement of the number of convicts received into the Penitentiary, and from what county received and for what crimes convicted; the number discharged, died, escaped and pardoned, and the general health of the convicts. The said directors shall before entering upon the duties of their

office give a bond to the Territory of Dakota in the sum of ten thousand dollars for the faithful discharge of all the duties of their office, to be approved by the Territorial Treasurer and put on file in his office.

§ 9. PAY OF DIRECTORS.] The said directors shall receive five dollars per day for every day they may be actually employed about the erection of said building ;

Provided, That but one of said directors shall be paid for attendance during the progress of the work, except when meetings are held for conference, and traveling expenses not to exceed ten cents per mile for each mile actually and necessarily traveled in discharge of their duties, the said sum to be paid out of the Territorial Treasury on the warrant of the Auditor.

§ 10. PENITENTIARY TO BE PRISON OF THE TERRITORY.] The said Penitentiary when completed as herein provided shall be a general Penitentiary and Prison of the Territory of Dakota, for the punishment and reformation of offenders, in which shall be confined and employed at hard labor, and governed in the manner hereinafter directed, all offenders who shall hereafter be committed and sentenced according to law, by the District Court of the Third Judicial District of the Territory of Dakota, from any of the counties comprising said district ;

Provided, That convicts may be transferred from the Penitentiary at Sioux Falls, to said Penitentiary at Bismarck, or from the Penitentiary at Bismarck to that at Sioux Falls under the direction of the Governor of the Territory, whenever in his judgment, the interests of the Territory will be promoted thereby ;

Provided, further, That should there be a division in said Judicial District that the same shall not affect the provisions of this act, its true intent and meaning being, that all prisoners and convicts sentenced to the Penitentiary from the Territory now embraced in said Judicial District, shall be confined in said Penitentiary at Bismarck, unless transferred therefrom as provided for above.

§ 11. JURISDICTION OF BURLEIGH COUNTY.] For the purpose of all judicial proceedings, the prison and precincts thereof shall be deemed to be within and a part of the county of Burleigh, and the courts of said county shall have jurisdiction of all the crimes and offences committed within the same.

§ 12. PROCESS, BY WHOM SERVED.] All process to be served within the precincts of the prison, either upon convicts or upon persons or officers employed within the precincts of the prison except the warden, shall be served and returned by the warden, and all officers and employes of the prison shall be exempt from serving upon juries in any court and from highway poll tax.

§ 13. OFFICERS.] The officers of the Penitentiary shall consist of the board of directors as herein provided, one warden, one gate keeper, one turnkey, and such guards, overseers and laborers as may be necessary.

§ 14. WARDEN.] The warden shall be appointed by the directors, to hold his office for two years unless sooner removed by the directors, and said directors are hereby authorized to remove such warden at their discretion. All other officers and employes shall be appointed by the warden to be approved by the directors and shall hold their office during the pleasure of the warden.

§ 15. WARDEN'S SALARY.] The warden shall receive a salary to be fixed by the directors, no to exceed two thousand [dollars] per annum, and all other officers and employes such amounts as the directors may from time to time determine and fix upon.

§ 16. VISITING PRISON.] The directors shall appoint some one of their number, from time to time, whose duty it shall be to visit the prison at least once in each month, and inspect the books and all the concerns of the prison, and ascertain whether the officers are competent and faithful, and the convicts properly governed and employed and cared for, and said visitor shall have power to direct any alteration, or change therein, with the assent of the directors.

§ 17. RECORDS OPEN TO INSPECTION.] All books and documents relating to the concerns of the prison, shall at all times be open to the examination of the directors and the public.

§ 18. DUTIES AND RESPONSIBILITIES OF WARDEN.] The warden shall, under the direction of the directors, have the charge and custody of the prison, with all lands, buildings, furniture and tools, implements, stock and provisions and every other species of property pertaining thereto or within the precincts thereof, and shall superintend the police of the prison, and discipline of the convicts. He shall be secretary of the board of directors and keep and preserve accurate minutes of all their meetings. He shall be treasurer of the prison, and he shall render to the directors, on the first day of each month, a full and accurate statement of all moneys received by him, and all sums of money expended by him during the preceding month, showing on what account received and expended, and shall accompany such report with proper vouchers for all such expenditures which report shall be verified by the oath of the warden, and shall receive and pay out all moneys granted by the Legislature for the support of the prison, and such as may accrue from the business of manufacturing under contract or otherwise, convict labor or rentage or sale of any personal property. The warden shall keep an account of all moneys received for gate fees for the admission of visitors to the prison;

the amount of which for each year shall be embraced in his annual report, and shall constitute a part of the prison revenues. He shall be his own clerk and keep a correct record of all the transactions of his office and a correct account of all his doings. He shall keep a daily journal of the proceedings of the Penitentiary in which he shall note all infractions of the rules and regulations of the Penitentiary by any officer or guard thereof, and make a memorandum of every complaint made by any convict, of cruel or unjust treatment by any officer of the prison, or a want of proper clothing or food, and also any infraction of the rules and regulations of the Penitentiary by any prisoner, naming him and specifying the offence, and also what punishment, if any, was awarded; which journal shall be laid before the directors at every meeting.

§ 19. BOND OF WARDEN.] Before the warden enters upon the duties of his office he shall give a bond to the Territory of Dakota in the sum of fifteen thousand dollars, with two or more sureties, to be approved by the directors, conditioned that he will faithfully account for all moneys which shall come into his hands as prison treasurer, and perform all duties incumbent upon him as warden of the prison; he shall also take and subscribe the constitutional oath of office, and such bond, with the approval of the directors indorsed thereon, and the oath aforesaid shall be filed in the office of the Territorial Treasurer. The directors may require the warden to file new bonds, with other and satisfactory security, in a larger sum than that specified above, whenever in their judgment it may seem necessary.

§ 20. RULES AND REGULATIONS.] The warden shall make such rules and regulations, not inconsistent with the laws of the Territory, for the government of the officers and convicts of the Penitentiary, as he may deem necessary and proper, subject to the approval of the directors.

§ 21. WARDEN'S RESIDENCE, ETC.] The warden shall reside within the prison grounds, and neither the warden nor any prison officer appointed by him or holding any office in the Penitentiary, including the directors, shall have any interest or concern pecuniarily, in any contract, either verbal or written, which may be entered into by said warden on the part of the Territory, for any purpose whatever connected with the business of the Penitentiary.

§ 22. CONTRACTS.] All contracts made on the part of the Territory by the warden on account of the Penitentiary, shall be in writing and approved by the directors before taking effect, unless when the wants or necessities of the prison shall compel the warden to purchase supplies of any kind immediately, in which case he may purchase the same upon verbal agreement. All contracts

lawfully made by him shall be deemed the contracts of the Territory. The prison property of every kind in his charge is the property of the Territory, and all funds of the prison received by him shall at all times be kept separate from any other funds. The warden shall have power to make all purchases for the prison on such conditions and in such manner as in his opinion will best promote the interests of the Territory.

§ 23. PUBLIC NOTICE.] Whenever the warden shall determine to contract for the furnishing of the principal articles purchased for the use of the prison, such as food, fuel, lumber, stone, brick, iron, or steel, the same shall be contracted for by the warden, when such contracts can be advantageously made. The warden shall give previous notice in at least two newspapers printed in the Territory of Dakota, of the articles wanted, the quality and quantity thereof, as near as the same can be ascertained, the time and manner of delivery, and the period during which such articles shall be received. Such notice shall be published at least three successive weeks.

§ 24. AWARDING CONTRACT.] All such proposals shall be in writing and sealed up, and upon the day appointed in the notice in the foregoing section, they shall be opened by the warden, who shall cause all offers made in such proposals to be entered in a book and compared. The person offering the best terms, together with satisfactory security for the performance which shall be required by the warden in said notice, shall be entitled to the contract, unless it shall appear to the warden that no one of the offers is as low as the fair market price. In that case no offer shall be accepted, but the warden may, if he thinks necessary, advertise again and proceed as before provided for.

§ 25. CONTRACTOR TO GIVE BOND.] All persons contracting under the provisions of the preceding sections shall give bonds to the Territory in double the value of the supplies to be furnished with satisfactory security for the faithful performance of their contract. All bills contracted by the warden for purchases on account of the prison, shall be approved by a majority of the directors before payment.

§ 26. INVOICES.] The warden shall take bills of quantity and price of the supplies furnished in all cases where the same is practicable, at the time of their delivery, and the warden or such other officer as the warden shall direct, shall compare the bill with the articles delivered, and if the same are found correct he shall make a corresponding entry on the account books of the prison and file the bill as a voucher of the fact of such delivery. If any bill so rendered shall be discovered to be incorrect on comparing it with the articles delivered, the warden shall immediately give notice to the person furnishing such supplies.

§ 27. RECEIVING PRISONERS.] The sheriff of each county shall convey to the Penitentiary aforesaid, all persons convicted in his county and sentenced to be confined in said prison, as soon as may be after such conviction and sentence shall have been had, and after delivering such convict or convicts to the warden, together with a certified copy of the judgment and sentence of the court ordering such imprisonment, the warden shall deliver to such sheriff a receipt in which he shall acknowledge having received the prisoner (naming him) which said receipt the sheriff shall file in the office of the clerk of the court where such conviction and sentence was had; such sheriff shall be entitled to receive from the Treasurer of the Territory the amount actually and necessarily expended by him in transporting such prisoner, including the amount paid for boarding and lodging, and such guards as may have been necessary, and such further reasonable sum as shall be a fair compensation for the time necessarily spent in transporting such prisoner, to be fixed and allowed by the Territorial Auditor. Each officer, overseer, or keeper, employed in or about the prison, shall take and subscribe an oath before some officer authorized to administer oaths, to discharge the duties respectively required by law and the regulations of the prison, faithfully and to the best of his ability, which said oaths shall be filed with the warden of the Penitentiary.

§ 28. CUSTODY OF CONVICTS.] All convicts in the prison shall be in the charge and custody of the warden, who shall govern and employ them in the manner prescribed by law, the rules and regulations of the prison and in conformity to the respective sentence under which they shall be confined.

§ 29. DUTY OF EMPLOYEES.] All officers and persons employed in and about the prison, shall perform such duties in charge and oversight of the prison, the care of the property belonging thereto, and the custody, government, discipline and employment of the convicts, as shall be required of them by the warden, in conformity to law and the rules and regulations of the prison, and no such officer or person shall be engaged directly or indirectly in procuring a pardon of any convict confined in said prison, and any person violating the provision of this section shall be subject to immediate removal.

§ 30. SOLITARY CONFINEMENT.] Every convict against whom the punishment of solitary confinement shall be awarded by sentence of the court, or for violating any of the rules and regulations of the prison, shall be confined in one of the solitary cells, and during said confinement shall be fed on bread and water only, unless a physician called upon to ascertain the fact shall certify to the warden that the health of such convict requires other diet.

§ 31. **HARD LABOR.]** All convicts sentenced to punishment of hard labor in said prison shall be constantly employed for the benefit of the Territory. No communication shall be allowed between them and any person without the prison, except under supervision prescribed by the rules of the prison. They shall be confined in separate cells at night time, and in day time all intercourse between them shall be prevented as far as practicable. All communication between male and female convicts shall be prevented.

§ 32. **FOOD.]** The daily sustenance of convicts not in solitary confinement, nor in the hospital, shall consist of wholesome, coarse food, with such proportions of meat and vegetables as the warden shall deem best for the health of the convicts.

§ 33. **LIQUORS.]** No spirituous liquors or any article of indulgence shall be allowed any convict except by order of the physician, which order shall be in writing and for a definite period, and the warden may, in his discretion, make moderate allowance of tea or tobacco to convicts as a reward for industry and good behavior.

§ 34. **BEDS AND CLOTHING.]** The clothing and bedding of convicts shall be of such quality and quantity as the judgment of the warden may direct, consulting the health and comfort of the convicts, and the interest of the Territory.

§ 35. **DISCIPLINE.]** All necessary means shall be used under the direction of the warden to maintain order in the prison, enforce obedience, suppress insurrections and effectually prevent escapes, even at the hazard of life, for which purpose he may at all times command the aid of the officers of the institution and of the citizens outside the precincts of the prison, and any citizen refusing to obey such command shall be held liable to such fines, penalties and forfeitures as apply to persons refusing to obey a sheriff or other officer calling upon the aid of the county to assist in serving a process or for quelling an insurrection.

§ 36. **TREATMENT.]** The warden and all prison officers shall uniformly treat prisoners with kindness, and the warden shall require of the officers that in the execution of their respective duties they shall in all cases refrain from boisterous and unbecoming language in giving their orders and commands. There shall be no corporal or other painful and unusual punishment inflicted upon convicts for violation of prison rules.

§ 37. **MONEY AND EFFECTS OF PRISONERS.]** The money and effects, except the clothes, in possession of each convict when committed to the prison shall be preserved by the warden and restored to the convict when discharged.

§ 38. DISCHARGE OF CONVICT.] Every convict when discharged shall be provided with a decent suit of clothes and a sum of money, not to exceed five dollars, and transportation to the place where the convict received sentence, and may also be allowed employment in the prison under the rules established for the government of convicts for such period of time, and at such rate of compensation, as the warden shall deem proper and equitable.

§ 39. DEATH OF CONVICT.] The warden shall in case of death of any convict cause the body to be decently buried or deliver it to the relatives or friends of such convict, if demanded by them within twenty-four hours.

§ 40. EMPLOYMENT OF CONVICTS.] If the warden shall at any time deem it for the interest of the Territory, he may employ the convicts outside the prison yard in quarrying or getting stone from and cultivating the prison farm, or in doing any work necessary to be done in the prosecution of the regular business of the institution; and in all such cases the warden shall detail such force from the prison police as he shall deem necessary to watch and guard them, and in case any convict employed outside the prison yard shall escape he shall be deemed as having escaped from the prison proper;

Provided, however, That the warden shall be held responsible for the escape of any prisoners through the carelessness or neglect of himself or any of his subordinates

§ 41. RECORD OF CONDUCT.] The warden shall keep a true record of the conduct of each convict, specifying each infraction of the rules of discipline. At the end of each month the said warden shall give a certificate of good conduct to each convict who shall require it, against whom is recorded no infraction of the rules of discipline.

§ 42. EXEMPTION FROM SOLITARY CONFINEMENT.] When any convict sentenced to periodical terms of solitary confinement shall, after suffering one term of solitary confinement, conduct himself in a peaceful, obedient and industrious manner, the board of directors may exempt him from further solitary confinement during good behavior.

§ 43. CAPTURING ESCAPED CONVICTS.] The warden may adopt such measures as he may deem proper, with the approval of the directors, to aid in detecting and capturing escaped convicts.

§ 44. LEASING CONVICT LABOR.] The warden is authorized and empowered by and with the advice and approval of the board of directors of said Penitentiary, to lease from time to time the labor of such portion of the able-bodied prisoners confined therein, together with such shop-room, machinery and power as may be necessary for their proper employment, to such persons for such pur-

poses, upon such terms and conditions and for such length of time, not exceeding five years at any one time, as he shall deem most conducive to the interests of the Territory and the welfare of the prisoners.

§ 45. RESERVATIONS IN CONTRACTS.] In every contract made pursuant to the authority herein conferred, there shall be reserved to the directors of said Penitentiary, and to the warden and to each and every one of his subordinates, full power and authority to prevent the demanding or imposition of unusual or severe labor, or labor whereby the health or safety of the convicts may be impaired or jeopardized; and the said warden may from time to time prescribe all needful rules for the government and conduct of all contractors, their overseers and agents, in their relations to the convicts, and may require summary dismissal of any individual employed by any contractor in said prison, whenever it shall appear that the presence or conduct of such individual is prejudicial to the discipline of the prison or the welfare of the convicts.

§ 46. SECURITY FOR FAITHFUL PERFORMANCE OF CONTRACTS.] Adequate security shall be exacted of all contractors for the faithful performance of all the provisions of the contracts on their part to be performed, and the directors and warden of said Penitentiary shall use their utmost endeavors to have all the terms and conditions of said contracts fully complied with on the part of the warden; but no contractor shall have or claim from the Territory of Dakota, or the warden, or from the prison, or any of its funds, any damages, whether by way of recoupment, set-off or otherwise, for or on account of the failure or neglect of said warden to furnish to such contractor the labor of the full number of convicts specified in the contract.

§ 47. RULES AND REGULATIONS.] The board of directors of said Penitentiary are empowered to make all needful rules and regulations for the guidance of the warden in the exercise of the authority herein conferred upon him, and may whenever in their judgment it is impracticable to continue to furnish the labor of convicts to any contractor, order and direct the cancellation of any contract, and thereupon after six months notice to such contractor all obligations of the warden under such contract shall cease and determine, and such contractor shall not have or be entitled to have any compensation, whether by way of damages, set-off, recoupment or otherwise, in consequence thereof.

§ 48. PROPOSALS FOR CONVICT LABOR.] Before entering into any contract for the leasing of convict labor, the warden shall, by public advertisement, invite sealed proposals for the hiring of such labor, shop-room, machinery and power. Such advertisement shall specify the time and place, when and where such proposals

will be opened and considered, and there shall be reserved the right to reject any or all bids that may be made.

§ 49. REWARD FOR GOOD BEHAVIOR.] Whenever any convict by continued good behavior, diligence in labor or study, or otherwise, shall surpass the general average of convicts, he may be compensated therefor, at the discretion of the Governor, upon the recommendation in writing of the directors, either by diminishing the period of his confinement or by payment of money, or both.

§ 50. INSANE CONVICT—HOW DISPOSED OF.] Whenever it shall appear to the satisfaction of the Governor, by the representations of the warden and directors of said prison, that any person confined therein has become insane during such imprisonment and is still insane, it shall be lawful for the Governor to make inquiry thereof, and if he shall determine that such person has become and is insane, to make an order that such person be taken from said prison and be confined and treated in one of the Territorial Hospitals for the Insane, and upon his recovery from such insanity, if before the expiration of his sentence, that he be returned to said Penitentiary; and it shall be the duty of the warden of said Penitentiary, to deliver such insane person to the superintendent of such hospital, and such superintendent shall receive such person into such hospital upon the presentation of the order of the Governor, and in obedience thereto, and the expense of the same shall be audited by the Auditor of the Territory, and paid upon his warrant out of the Territorial Treasury.

§ 51. IF TERRITORY DIVIDES.] In case of any division of the Territory of Dakota before the expenses hereby incurred shall have been paid, that part of said Territory in which said Penitentiary is located, after such division, shall assume and pay all debts, bonds and liabilities of the said Territory existing on the date of such division by reason of the erection of the building herein provided for.

§ 52. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, February 27, 1883.

CHAPTER 31.

BISMARCK—AMENDING CHAPTER 30.

AN ACT Supplemental and Amendatory of An Act Entitled "An Act to Provide for the Building and Government of a Territorial Penitentiary for Dakota at Bismarck.

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

§ 1. BISMARCK TO DEED LAND FOR BUILDING.] That section one of an act entitled "An Act to Provide for the Building and Government of a Territorial Penitentiary for Dakota at Bismarck," approved February 27th, 1883, be amended by adding at the end thereof the following words, to-wit :

Provided. That the city of Bismarck aforesaid, shall, by deed in fee, convey to the directors aforesaid in trust for the Territory of Dakota, a tract of land for the location of said Penitentiary, within the limits aforesaid, of not less than forty acres in area, and,

Provided, further, That said tract of land shall be satisfactory to the directors.

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

Approved, March 9, 1883.

CHAPTER 32.

BISMARCK—TO PROVIDE FUNDS.

AN ACT to Provide Funds for the Purpose of Building a Penitentiary for Dakota Territory at Bismarck, Dakota, and for other purposes.

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

§ 1. BONDS TO BE ISSUED.] That for the purpose of providing funds to pay the cost of constructing and furnishing of a Territorial Penitentiary at the city of Bismarck, and for the use here-

with, the Territorial Treasurer is hereby authorized and empowered and it is made his duty to prepare for issue fifty thousand (\$50,000.00) dollars of Territorial bonds running for a term or period of twenty years, and payable at the option of the Territory after a term of five years, and bearing interest at the rate of six per cent. per annum with coupons attached, made payable semi-annually on the first day of July and January each year, in denominations of not less than one hundred dollars each. Such bonds shall be executed for the Territory, and under the seal thereof by the Governor and Treasurer shall be attested by the Secretary and shall be negotiated by the Treasurer of the Territory.

§ 2. WHEN TO BE ISSUED, AND PRICE.] Said bonds shall be known and designated as the "Second Dakota Territory Penitentiary Loan," and be kept as a separate fund on the books of the Treasurer, and to be issued and sold in the following manner, viz: Whenever the directors of the Penitentiary shall certify to the Treasurer that contracts with good and sufficient securities have been executed with responsible persons for erecting and completing and furnishing the building and fixtures ready for use of a Penitentiary in accordance with this act, and the "Act entitled an act to provide for the building and government of a Territorial Penitentiary for Dakota Territory, at Bismarck, Dakota," which shall accommodate at least one hundred and twenty-five Territorial prisoners; it shall be the duty of the Treasurer to issue and offer for sale by public advertisement in one or more newspapers, to the person paying par or the highest premium above par, and sell the whole fifty thousand dollars of bonds or any part thereof as may be necessary, and use the proceeds thereof in accordance with the provisions of the act aforesaid.

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

Approved, February 27, 1883.

County Commissioners.

CHAPTER 33.

TO INCREASE NUMBER TO FIVE.

AN ACT Providing for the Division of Counties Into Five Commissioner Districts and the Appointment and Election of Commissioners therefor and Amending Section (15) Chapter (21) of the Political Code.

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

§ 1. WHEN COMMISSIONERS TO DIVIDE COUNTY—PROVISO.] That whenever one-third of the legal voters of any organized county of this Territory, petition the county commissioners that they desire five county commissioners for said county, and that said county be divided into five commissioner's districts, it is hereby made the duty of such county commissioners to call the judge of probate and county clerk together within twenty (20) days. The said county commissioners, judge of probate and county clerk (provided said commissioners are not the commissioners appointed in organizing the county) are hereby constituted a commission and authorized to carry out the provisions of this act;

Provided, that [in] the counties of Yankton, Cass, Bon Homme, Minnehaha, Walsh, Pembina and Traill the number of county commissioners shall be, and the same is hereby increased to five members, and said counties shall each be divided into five commissioner districts as herein provided without the necessity of a petition from the legal voters therein, and at the first meeting of the respective county commissioners of said counties after the passage of this act or at some subsequent meeting, and as soon as practicable they shall divide their respective counties into five commissioner districts as herein provided, and otherwise carry out and put in force the provisions of this act, so far as it relates and applies to their counties respectively.

§ 2. MANNER OF DIVISION, ETC.] Upon the meeting of the commission herein provided for they shall take and subscribe an oath to perform their duty impartially and for the best interest of such county, and elect one of their number chairman and one secretary of the commission; their proceedings shall be reduced to writing and signed by all the members and filed with the county clerk. They shall then consider the petition of such legal voters

and if satisfied that at least one-third of the legal voters of such county as shown by the last election returns, has petitioned them, then such commission shall proceed to divide such county into five districts and so divide it that no two of the then acting commissioners shall reside in one district; they shall then appoint a commissioner for each of the two districts that have no commissioner residing therein who shall hold their office until the next general or annual election and until their successors are elected and qualified, the then acting commissioners to continue to hold their respective offices until the term for which they are elected expires. The districts shall be numbered one (1), two (2), three (3), four (4) and five (5), and the districts in which no acting commissioners reside shall be numbered four (4) and five (5) and at the first general or annual election the commissioner for district number four (4) shall be elected for two years and the commissioner for district number five (5) for three years, [and when] the terms of office of the commissioners who have been elected (or appointed to fill a vacancy of an elected commissioner) expires, their successors shall be elected for the term of three years, each of whom shall be a resident of the district he is to represent and to be voted for only by the electors of said district.

§ 3. ACT AMENDED.] That section (15), chapter (21) of the Political Code be amended as follows, viz:

After the words "who shall be chosen," strike out the words "as hereinafter provided" and insert in lieu thereof the words "by the electors of their respective districts and of which districts such commissioners shall be qualified electors and residents."

§ 4. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage and approval, provided that the provisions of this act shall not apply to Clay county and Lincoln.

Approved March 6, 1883.

Summons.

CHAPTER 34.

IN JUSTICE COURT.

AN ACT Relating to the Service of Summons in Justice Court in Dakota Territory.

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

§ 1. NO FEES ALLOWED TO PARTY SERVING SUMMONS WHO IS NOT AN OFFICER.] That section 17 of article 3 of Justice Code be amended by adding thereto :

Provided, however, That whenever any summons or other process shall be served by any person other than a sheriff or other duly elected and qualified officer, no fees shall be allowed therefor either for mileage in traveling or making such service, or for serving said summons or process.

§ 2. This act to apply only to Minnehaha, Bon Homme, Clay, Union, Yankton and Lincoln county, Dakota Territory.

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

Approved, March 9, 1883.

CHAPTER 35.

IN DISTRICT COURT.

AN ACT Relating to the Service of Summons in District Court of Dakota Territory.

Be it Enacted by the Legislative Assembly of Dakota Territory :

§ 1. NO FEES ALLOWED TO PARTY SERVING SUMMONS IF NOT AN OFFICER.] That section 103, chapter 9, of the Code of Civil Procedure, be amended by adding thereto :

Provided, however, That whenever any summons or other process shall be served by any person other than a sheriff or his duly appointed deputy, no fees shall be allowed therefor, either for mileage in traveling or making such service, or for serving said summons or process.

§ 2. This act to apply only to Minnehaha, Bon Homme, Clay, Union, Yankton and Lincoln counties, Dakota Territory.

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

Approved, March 9, 1883.

Salaries.

CHAPTER 36.

COUNTY SUPERINTENDENTS OF GRAND FORKS AND CASS COUNTIES.

AN ACT to Fix the Salary of Superintendent of Public Schools in and for Cass County, Dakota Territory.

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

§ 1. COMPENSATION.] That the salary of the County Superintendent of Public Schools in and for Grand Forks and Cass counties shall be, and is, hereby fixed at eight hundred dollars per annum, to be paid quarterly, and said salary shall be in lieu of any and all other pay or expenses heretofore allowed by law.

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

Approved, March 9, 1883.

Township Assessors.

CHAPTER 37.

ASSESSMENT OF PROPERTY IN TOWNSHIPS.

AN ACT to Regulate the Time for Assessing Property by Township Assessors in Certain Counties, and for other Purposes.

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

§ 1. TOWNSHIP ASSESSOR SHALL MAKE AND DELIVER ASSESSMENT ROLL.] That that part of chapter 28 of the Political Code, relating to the assessment of property, shall apply to, and regulate township assessors, and such assessors shall severally make out and deliver to the county clerk of their respective counties, an assessment roll containing such items as are contained in section 26 of said chapter, appertaining solely to townships, on or before the first Monday in May, annually.

§ 2. That section 8 of said chapter 28, is amended by striking out the word "April" and inserting in lieu thereof the word "February."

§ 3. That section 17 of said chapter 28, is amended by striking out the word "May" and inserting in lieu thereof the word "February."

§ 4. That section eleven of said chapter 28, is amended by striking out the word "July" and inserting in lieu thereof the word "May."

§ 5. The provisions of this act shall apply only to the counties of Lincoln and Minnehaha.

§ 6. This act shall take effect immediately.

Approved, March 9, 1883.

University of Dakota.

CHAPTER 38.

ORGANIZATION AND GOVERNMENT.

AN ACT to Provide for the Organization and Government of the University of Dakota.

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

§ 1. PURPOSE, TUITION, ETC.] The objects of the University of Dakota, established by an act of the Legislative Assembly of the Territory of Dakota, entitled "An act to locate the University of the Territory of Dakota," approved, April 21, A. D. 1862, shall be to provide the best and most efficient means of imparting to young men and women on equal terms a liberal education and thorough knowledge of the different branches of literature, the arts and sciences with their varied applications. The University, so far as practicable, shall begin the courses of study in its collegiate and scientific departments, at the points where the same are completed in high schools; and no student shall be admitted who has not previously completed the elementary studies in such branches as are taught in the common schools throughout the Territory. No student, who shall have been a resident of the Territory one year next preceding his admission, shall be required to pay any fees for tuition in the University, except in the law department and for extra studies. The regents may prescribe rates of tuition for any pupil in the law department, or who shall not have been a resident of the Territory as aforesaid and for teaching extra studies.

§ 2. NO SECTARIAN CONTROL.] The University shall never be under the exclusive control of any religious denomination whatever, and no instruction, either sectarian in religion, or partizan in politics, shall ever be allowed in any department of the University.

§ 3. HOW GOVERNED.] The University shall be governed by a board of regents, consisting of the Governor of the Territory, who shall be president of the board, the President of the University, and Superintendent of Public Instruction, who shall each be a member of said board of regents by virtue of his office, together with six other competent persons, who shall be appointed by the Governor by and with the consent of the legislative council.

§ 4. REGENTS, HOW APPOINTED.] That immediately upon the passage and approval of this act the six persons shall be appointed and shall hold their offices for the term of two and four years respectively, and the Governor shall designate in his appointments the three persons who shall hold their office for two years and the three for four years.

§ 5. VACANCIES.] The board of regents shall fill vacancies occurring therein, except when the Legislature is in session; and the persons so appointed shall hold their offices until the next session of the Legislature, when the Governor, with the concurrence of the legislative council shall fill all vacancies.

§ 6. DEPARTMENTS.] The University shall include a collegiate, scientific, normal and such other departments with such courses of instruction and elective studies as the board of regents may determine, and the board shall have authority to confer such degrees and grant such diplomas and other marks of distinction as are usually conferred and granted by other universities.

§ 7. MEETINGS.] The meetings of the board of regents shall be held at such times as the board may appoint. The president of the board may call special meetings when he deems it expedient, or special meetings may be called by any three members of the board.

§ 8. FINANCES.] An executive committee consisting of three competent and responsible persons shall be appointed by the board of regents, who shall audit all claims and whose chairman shall draw all orders for such audited claims upon the treasurer, but before payment such orders shall be countersigned by the secretary. Said committee shall keep a specific and complete record of all matters involving the expenditure of money, which record shall be submitted to the board of regents at each regular meeting of same.

§ 9. ERECTION OF BUILDINGS.] Whenever any building is to be erected, or extensions, alterations or repairs are to be made in connection with the University, or other improvements, the board of regents shall have authority to procure all necessary plans, drawings and specifications for such building, alterations, repairs or improvements; to advertise for proposals for the erection and completion or performance thereof, in such manner as may be most advantageous, and to contract with the lowest responsible bidder therefor, such contractor in every case to give adequate security for the faithful performance of his contract; to appoint and discharge a building superintendent, who shall superintend the work and perform such other duties as they may require, and receive such compensation as the board shall determine, and to examine and certify to the correctness of the estimates and accounts for

work under the contract, and of their superintendent and employes.

§ 10. SECRETARY.] The board of regents shall elect a secretary, who shall hold his office at the pleasure of the board. He shall record all the proceedings of the board of regents, and carefully preserve all books and papers. He shall countersign and register all orders for money on the treasurer, and the treasurer shall not pay an order on him for money, unless the same be countersigned by the secretary.

§ 11. TREASURER.] The board of regents shall elect a treasurer, who shall hold his office at the pleasure of the board. He shall keep a true and faithful account of all moneys received and paid out by him, and before entering upon the duties of his office he shall take and subscribe an oath that he will faithfully perform the duties of treasurer; and he shall also give a bond in a penal sum fixed by said board, conditioned for the faithful discharge of his duties as treasurer, and that he will at all times keep and render a true account of moneys received by him as treasurer, and of the disposition he has made of the same, and that he will at all times be ready to discharge himself of the trust, and to pay over when required; which bond shall have two or more good securities, and shall be approved as to its form and sufficiency of its sureties by the board of regents, and also the auditor and secretary of the Territory, and shall be filed in the office of the latter.

§ 12. RULES.] The board of regents shall enact rules for the government of the University, and shall appoint a president and the requisite number of professors and tutors, together with such other officers as they may deem expedient, and shall determine the salaries of such officers, the compensation of the secretary and treasurer. They shall remove any officers connected with the University, when, in their judgment, the good of the institution requires it.

§ 13. PURCHASE OF APPARATUS.] The board of regents is authorized to expend such sums of money as may be appropriated for the University funds as it may deem expedient, in the purchase of apparatus, library and a cabinet of natural history, in providing suitable means to keep and preserve the same, and in procuring all other necessary facilities for giving instruction.

§ 14. CABINET.] All specimens of natural history and geological and mineralogical specimens, which are, or hereafter may, be collected by the territorial geologist or by any others appointed by the Territory to investigate its natural and physical resources, or donated by any person, shall belong to, and be the property of the University, and shall form a part of its cabinet of natural his-

tory, which shall be under the charge of the professor of that department.

§ 15. REPORT OF PRESIDENT.] The president of the University shall make a report on the fifteenth day of September preceding the meeting of the Legislative Assembly, to the board of regents, which shall exhibit the condition and progress of the institution in its several departments, the different courses of study pursued therein, the branches taught, the means and methods of instruction adopted, the number of students, with their names, classes and residences, and such other matters as he may deem proper to communicate.

§ 16. REPORT OF BOARD.] The board of regents shall, on the first day of October preceding each regular meeting of the Legislative Assembly, make a report to the superintendent of public instruction, which report, with that of the president of the University, shall be embodied in the said superintendent's report to the Legislative Assembly. The report of the board of regents shall contain the number of professors, tutors and other officers, with the compensation of each, the condition of the University fund, and the income received therefrom, the amount of expenditures, and the items thereof, with such other information and recommendations as they may deem expedient to lay before the Legislative Assembly.

§ 17. MILEAGE.] The regents shall receive no compensation except for actual expenses in traveling to and from their places of meetings, and also their actual expenses while discharging any other duties in connection with their office.

§ 18. FRANCHISES HERETOFORE GRANTED TO VEST IN PRESENT BOARD.] The said board of regents shall succeed to the custody of the books, records, buildings and all other property, real and personal, of the University of Dakota, incorporated on the 19th day of May, eighteen hundred and eighty-one, under chapter fourteen of the Civil Code; and the present board of trustees shall be dissolved immediately upon the organization of the board of regents herein provided for, and the deed or grant of all of said property, together with all the rights, privileges and franchises of said corporation is hereby accepted, and said deed or grant, is hereby legalized and declared to be and remains in full force and effect; and the grant of land from the United States of America to the Territory of Dakota, made in "An act entitled 'An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming, for University purposes,'" is hereby accepted by this Territory with all the privileges, rights and restrictions in said act provided.

Approved, February 3, 1883.

CHAPTER 39.

TO PROVIDE BUILDING FUND.

AN ACT to Provide for Funds for the Purpose of Completing the Present Building of the University of Dakota and for Constructing the Main Building thereof and for other purposes.

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

§ 1. BONDS TO BE ISSUED.] That for the purpose of providing funds to pay the cost of completing and furnishing the present building of the University of Dakota and for constructing and furnishing a main building for the same, the Territorial Treasurer is hereby authorized and empowered and it is made his duty to prepare for issue thirty thousand dollars of Territorial bonds, running for a term or period of twenty years, and payable at the option of the Territory after a term of ten years, and bearing interest at the rate of six per cent. per annum, with coupons attached made payable semi annually on the first days of July and January in each year, such bonds shall be executed under the seal of the Territory by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 2. PROPOSALS.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, and upon request of the board of regents he shall give public notice for thirty days in two newspapers of general circulation, one of which shall be published in the city of New York, and said bonds shall be sold to the highest bidder for cash.

§ 3. BOND TAX.] For the purpose of the prompt payment of principal and interest of the bonds herein provided, there shall be levied by the territorial board of equalization, at the time the other taxes are levied, and collected in the same manner as other territorial taxes are collected, such sums as shall be sufficient to pay such interest and the exchange thereon; and after ten years from the first day of May, 1883, in addition thereto, a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity. And it shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year, such interest as shall then be due, and to purchase said bonds at their market value, and retire and cancel the same with the sinking fund tax as fast as the same shall be received. And no tax or fund provided for the payment of such

bonds, either principal or interest, shall at any time be used for any other purpose.

§ 4. PAYMENT OF INTEREST.] If for any reason the Territorial Treasurer shall not have in his hands sufficient funds, herein provided, to pay the interest upon such bonds when due, he shall pay such interest out of any other unappropriated fund belonging to the Territory. And there is hereby appropriated and set apart out of the general funds belonging to the Territory, a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided can be made available, and it shall be made the duty of said Treasurer to pay said interest promptly at the time it falls due out of said funds.

§ 5. FUNDS REPLACED.] All moneys belonging to the general Territorial fund, applied by said Treasurer in payment of the interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 6. APPROPRIATION.] There is hereby appropriated out of the Territorial Treasury all the funds realized by the sale of the bonds provided for in this act. And the board of regents shall within ninety days after this act becomes a law, proceed with the completion of said present building and the construction of said main building with all the powers in the premises as is conferred on said board or any of its officers as is provided for in an act entitled "An Act to Provide for the Organization and Government of the Dakota University," approved February 1, 1883.

§ 7. AUDITOR TO DRAW WARRANTS.] It shall be the duty of the Auditor of the Territory upon the application of the board of regents or a majority thereof to draw warrants on the Territorial Treasurer for the purpose of completing and furnishing said present building and for the purpose of constructing and furnishing said main building, and for the purpose of carrying out the provisions of the aforesaid act.

§ 8. SPECIFIC APPROPRIATIONS.] There is hereby appropriated out of the Territorial Treasury for the period of two years, the following sums or so much thereof as may be necessary:

For apparatus for the University, one thousand dollars.

For lights and fuel and for pay of janitor, one thousand eight hundred dollars.

For necessary incidental expenses, one thousand dollars.

For improvement of University grounds, five hundred dollars.

§ 9. SALARIES.] The board of regents shall from time to time fix the salary of the president, professors and teachers of said University, and shall certify the same to the Territorial Auditor,

and it shall be the duty of the Territorial Auditor to draw warrants on the Territorial Treasury upon the certificate of the secretary of said board of regents that the amount is due for such salary fixed by said board, and that the service therein mentioned was actually performed. The salary of the president of said University shall not exceed fifteen hundred dollars per annum and the total salaries of the professors and teachers shall not exceed in the aggregate four thousand dollars per annum.

Approved, February 27, 1883.

University of North Dakota.

CHAPTER 40.

AT GRAND FORKS.

AN ACT Establishing a Territorial University at Grand Forks, Dakota.

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

§ 1. WHERE ESTABLISHED.] That there be, and is, hereby established in this Territory at the city of Grand Forks, in the county of Grand Forks, an institution of learning by the name and style of the "University of North Dakota."

§ 2. BOARD OF REGENTS.] The government of the University shall vest in a board of regents, to consist of five (5) members, to be appointed by the Governor, by and with the consent of the council, and the Governor shall, during the term of his office, be a member of said board. The term of office of said regents shall be two for two years, and three for four years for the first term, and for four years thereafter, from and after their appointment, unless sooner removed by the Governor for cause; but appointment to fill vacancies, before the expiration of a term, shall be for the residue of the term only.

§ 3. POWERS AND DUTIES OF BOARD.] The board of regents and their successors in office shall constitute a body corporate, by the name of "The Regents of the University of North Dakota," and shall possess all the powers necessary or convenient to accomplish the objects and perform the duties prescribed by law, and shall

have the custody of the books, records, buildings and all other property of said University. The board shall elect a president and a secretary, who shall perform such duties as may be prescribed by the by-laws of the board. The secretary shall keep a faithful record of all the transactions of the board, and of the executive committee thereof. The Territorial Treasurer shall be the treasurer of the board and perform all the duties of such office, subject to such regulations as the board may adopt, not inconsistent with his official duties, and he and his sureties shall be liable on his official bond as Territorial Treasurer for the faithful discharge of such duties.

§ 4. REGULAR AND SPECIAL MEETINGS.] The time for the election of the president and secretary of said board, and the duration of their respective terms of office, and the time for holding the regular annual meeting, and such other meetings as may be required, and the manner of notifying the same, shall be determined by the board, shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time.

§ 5. LAWS, REGULATIONS AND INSTRUCTION.] The board of regents shall enact laws for the government of the University in all its branches; elect a president and the requisite number of professors, instructors, officers and employes, and fix the salaries and the term of office of each, and determine the moral and educational qualifications of applicants for admission to the various courses of instruction; but no instruction, either sectarian in religion or partisan in politics, shall ever be allowed in any department of the University, and no sectarian or partisan test shall ever be allowed or exercised in the appointment of regents, or in the election of professors, teachers, or other officers of the University, or in the admission of students thereto, or for any purpose whatever. The board of regents shall have power to remove the president or any professor, instructor, or officer of the University, when in their judgment the interests of the University require it. The board may prescribe rules and regulations for the management of the libraries, cabinet, museum, laboratories, and all other property of the University, and of its several departments, and for the care and preservation thereof with penalties and forfeitures, by way of damages for their violation, which may be sued for and collected in the name of the board, before any court having jurisdiction of such actions.

§ 6. MAY EXPEND FUNDS.] The board of regents are authorized to expend such portion of the income of the University fund as they may deem expedient for the erection of suitable buildings and the purchase of apparatus, a library, cabinets, and additions thereto; and if they deem it expedient, may receive in connection with the University, any college in this Territory, upon application of its

board of trustees; and such college so received shall become a branch of the University, and be subject to the visitation of the regents.

§ 7. REPORT.] At the close of each fiscal year the regents, through their president, shall make a report in detail to the Governor, exhibiting the progress, condition and wants of each of the colleges embraced in the University, the course of study in each, the number of professors and students, the amount of receipts and disbursements, together with the nature, costs, and results of all important investigations and experiments, and such other information as they may deem important, one copy of which shall be transmitted free by the Governor of the Territory, to all colleges endowed under the provisions of the act of Congress, entitled "An act donating land to the several States and Territories, which provide colleges for the benefit of agriculture and mechanic arts," approved, July 2, 1862, and also one copy of [to] the Secretary of the Interior, as provided in said act.

§ 8. POWERS OF PRESIDENT.] The president of the University shall be president of the several faculties, and the executive head of the instructional force in all its departments; as such, he shall have authority, subject to the board of regents, to give general direction to the instruction and scientific investigations of the several colleges, and so long as the interests of the institution require it, he shall be charged with the duties of one of the professorships. The immediate government of the several colleges shall be intrusted to their respective faculties, but the regents shall have the power to regulate the course of instruction, and prescribe the books or works to be used in the several courses, and also to confer such degrees and grant such diplomas as are usual in Universities, or as they shall deem appropriate, and to confer upon the faculty by by-laws the power to suspend or expel students for misconduct or other causes prescribed in such by-laws.

§ 9. OBJECT OF UNIVERSITY.] The object of the University of North Dakota shall be to provide the means of acquiring a thorough knowledge of the various branches of learning connected with scientific, industrial and professional pursuits, in the instruction and training of persons in the theory and art of teaching, and also instruction in the fundamental laws of the United States, and of this Territory, in what regards the rights and duties of citizens, and to this end it shall consist of the following colleges or departments, to-wit:

1. The college or department of arts.
2. The college or department of letters.
3. The normal college or department.
4. Such professional or other colleges or departments as now

are, or may, from time to time, be added thereto or connected therewith.

§ 10. SAME.] The college or department of arts shall embrace courses of instruction in mathematical, physical and natural sciences, with their application to the industrial arts, such as agriculture, mechanics, engineering, mining and metallurgy, manufactures, architecture, and commerce, *in* [and] such branches included in the college of letters, as shall be necessary to proper fitness of the pupils in the scientific and practical courses for their chosen pursuits and in military tactics; in the normal department the proper instruction and learning in the theory and art of teaching, and in all the various branches and subjects needful to qualify for teaching in the common schools; and as soon as the income of the University will allow, in such order as the wants of the public shall seem to require, the said courses in the sciences and their application to the practical arts shall be expanded into distinct colleges of the University, each with its own faculty and appropriate title. The college of letters shall be co-existent with the college of arts, and shall embrace a liberal course of instruction in language, literature and philosophy, together with such courses, or parts of courses, in the college of arts, as the regents of the University shall prescribe.

§ 11. PUPILS, INSTRUCTION, ETC.] The University shall be open to female as well as to male students, under such regulations and restrictions as the board of regents may deem proper; and all able-bodied male students of the University, in whatever college, may receive instruction and discipline in military tactics, the requisite arms for which shall be furnished by the Territory. After any person has graduated at the University, and after such graduation, has successfully taught a public school in this Territory for sixteen school months, the Superintendent of Public Instruction shall have authority to countersign the diploma of such teacher after such examination as to moral character, learning and ability to teach, as to said superintendent may seem proper and reasonable. Any person holding a diploma granted by the board of regents of the Territorial University of North Dakota, certifying that the person holding the same is a graduate of said University, shall, after his diploma has been countersigned by the Territorial Superintendent of Public Instruction as aforesaid, be deemed qualified to teach any of the public schools of this Territory, and such diploma shall be a certificate of such qualifications until annulled by the Superintendent of Public Instruction.

§ 12. TUITION FEE.] No student who shall have been a resident of the Territory for one year next preceding his admission, shall be required to pay any fees for tuition in the University, ex-

cept in the law department and for extra studies. The regents may prescribe rates of tuition for any pupil in the law department, or who shall not have been a resident as aforesaid, and for teaching extra studies.

§ 13. APPROPRIATION.] For the support and endowment of the University there is annually and perpetually appropriated:

1. The University fund income and all other sums of money appropriated by any law to the University fund income of North Dakota.

2. The agricultural college fund income of North Dakota.

3. All such contributions as may be derived from public or private bounty.

The entire income of all said funds shall be placed at the disposal of the board of regents by transfer to the treasurer of said board, thenceforth to be distinct and independent of the accounts of the Territory, and for the support of the aforesaid colleges or departments of arts, of letters, normal, and such other colleges or departments as shall be established in the said University, or connected therewith; but all means derived from other public or private bounty shall be exclusively devoted to the specific objects for which they shall have been designated by the grantor.

§ 14. TAX.] *They* [there] shall be levied and collected annually a territorial tax of one-tenth of one mill for each dollar of the assessed valuation of the taxable property of the Territory, which amount, when so levied and collected, is appropriated to said University fund income, to be used annually as a part thereof.

§ 15. SPECIAL APPROPRIATION FOR ASTRONOMICAL APPARATUS.] The sum of two thousand dollars shall be set apart annually forever, from the receipts of the tax mentioned in the preceding section, so soon as a complete and well equipped astronomical observatory shall be given to the University on its own grounds, without cost to the Territory, to be expended by the regents in astronomical work and instruction;

Provided, Such observatory be completed by the 4th day of July, A. D. 1886.

§ 16. COMPENSATION OF REGENTS.] The regents shall each receive the actual amount of expenses in traveling to and from and in attendance upon all meetings of the board, or incurred in the performance of any duty in pursuance of any direction of the board; accounts for such expense, duly authenticated, shall be audited by the board and be paid on their order by the treasurer out of the University fund income. No regent shall receive any pay, mileage, or *per diem*, except as above described.

§ 17. REGENTS TO MAKE RULES, ETC.] The said board of re-

gents shall make such rules, regulations and by-laws for the good government and management of the University, and of each department thereof; to prescribe rules and regulations for the admission of students; but every applicant for admission shall undergo an examination to be prescribed by the board, and shall be rejected if it shall appear that he or she is not of good moral character; to require any applicant for admission in the normal department, other than such as shall, prior to admission, sign and file with said board a declaration of intention to follow the business of teaching common schools in this Territory for at least one year, to pay or to cause to be paid such fees for tuition as the board may deem proper and reasonable.

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

Approved, February 27, 1883.

CHAPTER 41.

AMENDMENT.

AN ACT Supplementary to a Bill Entitled a Bill for An Act Establishing a Territorial University at Grand Forks, Dakota Territory, Known on the Records as Council Bill No. 101, Passed at the Fifteenth Session of the Legislative Assembly of the Territory of Dakota.

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

§ 1. CERTAIN SECTIONS STRICKEN OUT.] That the bill entitled an act establishing a Territorial University at Grand Forks, Dakota Territory, known on the records as Council Bill No. 101, passed at the Fifteen Session of the Legislative Assembly of the Territory of Dakota, be, and the same is hereby amended by striking out all of sections thirteen (13), fourteen (14), and fifteen (15) of said bill.

§ 2. All acts or parts of acts inconsistent with this act are hereby repealed.

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

Approved, February 27, 1883.

CHAPTER 42.

APPROPRIATION FOR MAINTENANCE.

AN ACT to appropriate Funds for the Necessary Maintenance of the Territorial University of North Dakota, at Grand Forks, D. T.

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

§ 1. APPROPRIATION.] That for the purpose of putting into active operation of the Territorial University of North Dakota, at Grand Forks, when the building of the same shall have been completed and ready for occupancy, that there is, hereby appropriated out of the Territorial Treasury the following sums or so much thereof as may be necessary :

For apparatus for the said University, one thousand dollars.

For lights, fuel, and pay of janitor, six hundred dollars.

For necessary incidental expenses, one thousand dollars.

For improvement of University grounds, four hundred dollars.

§ 2. SALARIES.] The board of regents shall from time to time fix the salary of the president, professor and teachers of said University, and shall certify the same to the Territorial Auditor, and it shall be the duty of the Territorial Auditor to draw warrants on the Territorial Treasurer upon the certificate of the secretary of said board of regents, that the amount is due for such salary fixed by said board, and that the services therein mentioned were actually performed ;

Provided, That the aggregate salaries of such president, professor and teachers shall not exceed the sum of five thousand dollars per annum.

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

Approved, March 7, 1883.

CHAPTER 43.

TO PROVIDE FOR ISSUING BONDS FOR BUILDING.

AN ACT to Provide Funds for the Construction of a Main Building for the University of North Dakota.

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

§ 1. TERRITORIAL TREASURER TO ISSUE BONDS.] That for the purpose of providing funds to pay the cost of erecting and completing a main building of the University of North Dakota, at Grand Forks, Dakota Territory, the Territorial Treasurer is hereby authorized and empowered, and it is made his duty to prepare for issue thirty thousand dollars of Territorial bonds running for a term or period of twenty years, and payable at the option of the Territory after a term of ten years, and bearing interest at the rate of six per cent. per annum with coupons attached, made payable semi-annually on the first day of July and January each year; such bonds shall be executed under the seal of the Territory by the Governor and Treasurer, and shall be attested by the Secretary, and shall be negotiated by the Treasurer of the Territory.

§ 2. PROPOSALS FOR PURCHASE.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, and upon request of the board of regents he shall give public notice for thirty days in two newspapers of general circulation, one of which shall be published in the city of New York, and said bonds shall be sold to the highest bidder for cash.

§ 3. BOND TAX.] For the purpose of prompt payment of principal and interest of the bonds herein provided, there shall be levied by the Territorial board of equalization, at the time the other taxes are levied, and collected in the same manner as other territorial taxes are collected, such sum as shall be sufficient to pay such interest and exchange thereon; and after ten years from the first day of May, 1883, in addition thereto, a sinking fund tax shall be annually levied sufficient to retire and pay said bonds at their maturity. And it shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year, such interest as shall then be due, and to purchase said bonds at their market value, and retire and cancel the same with the sinking fund tax as fast as the same shall be received. And no tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose.

§ 4. PAYMENT OF INTEREST.] If for any reason the Territorial Treasurer shall not have in his hands sufficient funds, herein provided, to pay the interest upon such bonds when due, he shall pay such interest out of any other unappropriated fund belonging to the Territory. And there is hereby appropriated and set apart out of the general funds belonging to the Territory, a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided can be made available, and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due out of said funds.

§ 5. REPLACING FUNDS.] All moneys belonging to the general territorial fund, applied by said Treasurer in payment of the interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 6. APPROPRIATION.] There is hereby appropriated out of the Territorial Treasury all the funds realized by the sale of the bonds provided for in this act. And the board of regents shall within ninety days after this act becomes a law, proceed to secure and adopt plans for, and commence the construction of said main building, with all the powers in the premises as is conferred on said board or any of its officers as is provided for in an act entitled "An Act to Provide for the Organization and Government of the University of North Dakota."

§ 7. AUDITOR TO DRAW WARRANTS.] It shall be the duty of the Auditor of the Territory upon the application of the board of regents or a majority thereof, to draw warrants on the Territorial Treasurer for the purpose of constructing said main building and for the purpose of carrying out the provisions of the aforesaid act;

Provided, however, That sufficient deed of warranty be delivered to the Governor, free to the Territory, of a tract of land not less than ten acres in area, and situated within a limit of one mile of said city of Grand Forks, and also a bond from responsible parties that a well equipped observatory shall be furnished said University free of cost and not to cost less than \$10,000, which is to be made contingent upon this act.

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

Approved, February 27, 1883.

Weeds.

CHAPTER 44.

TO PREVENT THE SPREAD OF WEEDS.

AN ACT to Prevent the Spread of Noxious Weeds in the Counties of Union, Clay, Lincoln and Cass.

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

§ 1. DUTY OF OWNER OF LAND TO DESTROY CERTAIN NOXIOUS WEEDS.] Every person and every corporation shall destroy upon all lands which he or she shall occupy all weeds of the kinds known as Canada thistle and cuckle burr, at such time and in such manner as shall effectually prevent their bearing seed ; such time and manner of destroying such weeds, shall be prescribed by township boards of supervisors, or by boards of county commissioners in counties which shall not be organized into townships, and the same shall be published at least two weeks in some newspaper published in the county, not less than two weeks before the time so prescribed ;

Provided, That if there be no newspaper published in the county, then written notices of the same shall be posted the same as election notices are posted, in lieu of such publication. Every overseer of highways of every township or county, shall also in like time and manner destroy all such weeds that may grow, either on the highway of his road district or on any unoccupied land therein or on any occupied lands therein which the occupant thereof shall refuse or neglect to so destroy. For so doing such overseer shall have such compensation, payable out of the township treasury or county treasury, as the township board of supervisors or board of county commissioners, upon the presentation of his account therefor, verified by his oath and specifying by separate items the charges [on] each piece of land, describing the same, shall deem reasonable ; and the respective accounts so paid, except for the destruction of such weeds upon the highways, shall be placed on the next tax roll of the township or county as the case may be in a separate column headed "For Destruction of Weeds" as a tax against the lands upon which such weeds were destroyed, and be collected as other taxes, and the entry of such tax on the tax roll

shall be conclusive evidence of the liability of the land so taxed to such tax.

§ 2. PENALTY OF FAILURE.] If the occupant of any such lands or any such overseer shall fail to destroy such weeds as so required such occupant or overseer shall forfeit not less than five dollars nor more than fifty dollars. The chairman and each supervisor of every township or the chairman and each commissioner of counties not organized into townships, shall prosecute promptly for every such forfeiture which he shall have reason to believe to have been incurred.

§ 3. This act shall be in force and effect from and after its passage and approval by the Governor.

Approved, March 9, 1883.

LAWS OF LOCAL APPLICATION.

TITLES OF SPECIAL AND PRIVATE LAWS, MEMORIALS
AND RESOLUTIONS PASSED BY THE LEGISLA-
TURE OF 1883, AND NOT PUBLISHED IN THIS
VOLUME.

- AN ACT authorizing school district number one, Beadle county, Dakota Territory, to issue bonds to take up outstanding school warrants and for other purposes.
- AN ACT providing for the construction of a bridge across the Pembina river and authorizing the township of Walhalla in Pembina county, to issue bonds for the same.
- AN ACT to authorize school district No. 1, of the county of Dickey, in this Territory, to issue bonds for the purpose of building a school house.
- AN ACT providing for the erection and construction of a court house and jail for the county of Walsh, Territory of Dakota.
- AN ACT providing for the erection and construction of a court house and jail for the county of Beadle.
- AN ACT authorizing school district number three (3), of the county of Brown, Territory of Dakota, to issue bonds for the purpose of building and furnishing a school house.
- AN ACT entitled an act to authorize the county of Barnes to fund its indebtedness.
- AN ACT authorizing the county of Morton to issue bonds to fund and pay off its outstanding indebtedness.
- AN ACT to authorize school district number one, of the county of Clark, D. T., to issue bonds for the purpose of building a school house.
- AN ACT to legalize the acts of the incorporated village of Flaudreau, in issuing certain bonds.
- AN ACT authorizing Morton county to build a bridge across the Heart river, and issue bonds therefor.
- AN ACT to authorize school district No. 6, of the county of McCook, Dakota Territory, to issue bonds for the purpose of building a school house.
- AN ACT providing for the building of a court house and jail for the county of Griggs.

- AN ACT providing for the erection and construction of a court house and jail for the county of Brule.
- AN ACT to legalize the acts of the president and trustees of the village of Howard, Miner county, and to authorize the issue of village bonds to provide means of protection against loss by fire.
- AN ACT to authorize and empower the county of Bon Homme, in the Territory of Dakota, to issue bonds to be used in refunding and paying off its outstanding indebtedness and to provide for the payment of the same.
- AN ACT to authorize and empower the county of Union, in the Territory of Dakota, to issue bonds to be used in refunding and paying off its outstanding indebtedness and to provide for the payment of the same.
- AN ACT authorizing the board of county commissioners of Hughes county, Dakota, to fund the outstanding indebtedness of said county.
- AN ACT to authorize school district number three, Hand county, Dakota Territory, to issue bonds for the purpose of building a school house.
- AN ACT authorizing the board of county commissioners of Lawrence county, to compromise, settle and adjust a certain suit.
- AN ACT to authorize Lawrence county to issue bonds to be used in refunding and paying off its outstanding indebtedness and to provide for the payment of the same.
- AN ACT providing for the erection and construction of a court house and jail for the county of Codington, Territory of Dakota.
- AN ACT to authorize and empower the county of Grant, in the Territory of Dakota, to issue bonds to be used in funding its outstanding indebtedness.
- AN ACT to authorize the incorporated village of Egan, to issue bonds for certain purposes.
- AN ACT authorizing school district number five, in the county of Morton, Dakota Territory, to issue bonds for the purpose of building and furnishing a school house at Carbon, in said district.
- AN ACT authorizing the city of Bismarck, Dakota Territory, to issue bonds for the purpose of building and furnishing a school house.
- AN ACT to authorize joint school district No. (33) thirty-three, of the counties of Cass and Barnes, in this Territory, to issue

bonds for the purpose of building and furnishing a school house and to fund its present indebtedness and for other purposes.

- AN ACT authorizing the county commissioners of Davison county, of this Territory, to fund the outstanding indebtedness of said county.
- AN ACT providing for the erection and construction of a court house and jail for the county of Kidder, Territory of Dakota.
- AN ACT to authorize and empower school district number twenty (20), in the county of Brown, to issue bonds to the amount of five thousand dollars (\$5,000), for the building and furnishing a school house.
- AN ACT to empower school district No. 7, to issue bonds to build school house and to fund indebtedness.
- AN ACT authorizing school district No. 1, in Kidder county, Dakota Territory, to issue bonds for the purpose of building school house and for other purposes.
- AN ACT providing for the erection and construction of a court house and jail for the county of Aurora.
- AN ACT providing for the erection and construction of a court house and jail for the county of Hughes.
- AN ACT authorizing school district number two (2), in Kidder county, Dakota Territory, to issue bonds for the purpose of building school house and for other purposes.
- AN ACT to empower school district No. 28, of Spink county, Dakota, to issue bonds to build school house.
- AN ACT providing for the erection and construction of a court house and jail for the county of La Moure, Dakota Territory, and for other purposes.
- AN ACT to authorize and empower school district number one (1), in the county of Aurora, and school district number twelve (12), in the county of Davison, to issue bonds for building and furnishing school houses and to pay debts created therefor.
- AN ACT to legalize the action of the board of county commissioners of Grand Forks county, Territory of Dakota, in issuing ten thousand dollars (\$10,000.00) of jail bonds, and for other purposes.
- AN ACT to legalize the incorporation of the town of Wahpeton, Richland county, D. T.
- AN ACT to incorporate the city of Lisbon, D. T.
- AN ACT to incorporate the city of Larimore.

- AN ACT to amend an act entitled "An act to incorporate the village of Flandreau," passed at the thirteenth (13) session of the legislative assembly of the Territory of Dakota.
- AN ACT entitled "An act to amend an act entitled an act to incorporate the city of Springfield, Dakota Territory.
- AN ACT to amend an act entitled "An act to incorporate the village of Scotland, Dakota Territory.
- AN ACT to amend section (12) twelve, of an act entitled "An act to incorporate the city of Deadwood.
- AN ACT to incorporate the village of Buffalo, defining its boundaries, and for other purposes.
- AN ACT to amend an act entitled "an act to incorporate the village of Buffalo, defining its boundaries, and for other purposes.
- AN ACT to legalize the incorporation of the town of Madison, and the actions and proceedings of the board of trustees, and other officers thereof.
- AN ACT to amend an act entitled "An act to incorporate the village of Scotland."
- AN ACT to amend an act entitled "An act to incorporate the city of Bismarck," approved January 14th, 1875.
- AN ACT to incorporate the city of Rapid City.
- AN ACT to incorporate the town of Portland, defining its boundaries.
- AN ACT to incorporate the village of Parker, Turner county, Dakota, and define its boundaries.
- AN ACT to incorporate the city of Hillsboro, Traill county, Dakota.
- AN ACT to amend an act entitled "An act to incorporate the village of Mandan," which became a law February 24, 1881.
- AN ACT to incorporate the city of Huron.
- AN ACT to incorporate the village of Minto, Walsh county.
- AN ACT to incorporate the city of Grafton, Walsh county, Dakota.
- AN ACT to incorporate the city of Aberdeen, Dakota Territory.
- AN ACT to incorporate the city of Pierre.
- AN ACT incorporating the city of Valley City, Dakota Territory.
- AN ACT to amend an act entitled "An act to incorporate the city of Vermillion," Dakota Territory.
- AN ACT to amend an act entitled "An act to incorporate the city of Canton," passed in 1881.
- AN ACT amendatory of an act entitled "An act to incorporate the city of Grand Forks, Dakota Territory," and repealing the act amendatory thereof.

- AN ACT to amend section nine (9) of article one of the charter of the city of Fargo, and for other purposes.
- AN ACT to incorporate the city of Redfield.
- AN ACT to amend an act entitled "An act to incorporate the village of Valley Springs," approved February 22d, 1879.
- AN ACT to legalize the incorporation of the town of Casselton and the actions and proceedings of the board of trustees, and other officers thereof.
- AN ACT to amend the Charter of the village of Dell Rapids.
- AN ACT to amend an act entitled "An act to incorporate the city of Canton," passed by the 14th legislative assembly of the Territory of Dakota.
- AN ACT to incorporate the city of Chamberlain.
- AN ACT to incorporate the city of Sioux Falls.
- AN ACT to incorporate the city of Casselton.
- AN ACT to incorporate the city of Mitchell.
- AN ACT to incorporate the city of Ashton.
- AN ACT to incorporate the city of Brookings.
- AN ACT providing for a charter for the city of Jamestown, Dakota.
- AN ACT to revise and amend the charter of the city of Yankton, Dakota Territory.
- AN ACT to vacate the townsite of Garfield, in the county of Miner, Territory of Dakota.
- AN ACT to vacate a portion of the townsite of Running Water, in the county of Bon Homme and Territory of Dakota.
- AN ACT to vacate the town plat of Roscoe, Moody county, Territory of Dakota.
- AN ACT to repeal certain parts of the funding act of Pennington and Custer counties, of the session laws of 1879.
- AN ACT to authorize the county treasurer of Yankton county to purchase and cancel all outstanding bonds of said county other than the bonds commonly known as railroad bonds.
- AN ACT legalizing the acts of the county commissioners of Douglas county, and for other purposes.
- AN ACT authorizing the county of Dickey to issue bonds for the redemption of outstanding indebtedness, and for the erection and construction of county buildings, and for other purposes.
- AN ACT authorizing the county commissioners of the counties of Pennington and Custer to fund the outstanding indebtedness of said counties.
- AN ACT to provide for a commission to examine the financial

- condition of Yankton county, to adjust all the different funds thereof, and to settle with the officers of said county.
- AN ACT to authorize and empower the county of Yankton, in the Territory of Dakota, to issue bonds to be used in refunding and paying off its outstanding indebtedness, and to provide for the payment of the same.
- AN ACT to authorize and direct the county treasurer of Yankton county to remit penalty on all delinquent and unpaid taxes heretofore levied and assessed to pay interest on bonds heretofore issued, under the act of Congress entitled "An act in relation to the Dakota Southern railroad company," approved, May 27, 1872.
- AN ACT to provide for the appointment of a county clerk for Yankton county, and to define his duties.
- AN ACT to prevent the sale of intoxicating liquors at any point or place within nine hundred yards of Yankton college.
- AN ACT to fix the compensation of assessors in the counties of Pennington and Custer, and regulate the payment thereof.
- AN ACT to legalize certain acts of the board of county commissioners of Walsh county for the year 1881.
- AN ACT to extend the provisions of chapter sixty-four (64) of the session laws of the Thirteenth (13) Legislative Assembly of Dakota Territory to the town of Lead City, Lawrence county.
- AN ACT to authorize the county commissioners of Traill county to appropriate moneys from the general and penalty funds to purchase a poor farm and erect an asylum for the poor.
- AN ACT to authorize the county commissioners of Richland county, D. T., to use certain sinking funds of said county for bridge purposes.
- AN ACT to establish school district No. 39 of Turner county, Dakota, as an independent school district, to be designated as independent school district No. 1, Turner county, Dakota Territory.
- AN ACT to fix the compensation of assessors in the counties of Pennington and Custer, and regulate the payment thereof.
- AN ACT to change the name of Clark Centre to Clark, in Clark county, Territory of Dakota.
- AN ACT to establish the salaries of the mayor and councilmen of the city of Bismarck, D. T.
- AN ACT allowing the county commissioners of Burleigh county, Dakota Territory, to purchase for the use of the said county, certain lots in the court house square, on block now owned by private persons, and to pay for the same out of the county funds.

- AN ACT to change the location of the county seat of Traill county, Dakota.
- AN Act relating to the townsite of the city of Bismarck.
- AN Act to vacate Bradford's addition to the town of Bon Homme.
- AN ACT to amend section one of chapter sixty-two of the private laws of the Fourteen Session of the Legislative Assembly of the Territory of Dakota, entitled An act establishing a portion of school district number one of Moody county, Dakota Territory, as an independent school district, to be designated as an independent school district number one of Moody county, Dakota Territory.
- AN ACT to authorize and empower the county commissioners of Union county to levy a tax upon certain real and personal property in said county, and to appoint a commission to expend the same.
- AN ACT to vacate a part of the southwest quarter of the northwest quarter of section thirty-three (33), in township one hundred and eleven (111) of range seventy-nine (79), in Hughes county, in this Territory, known as Evan's addition to the village of Pierre.
- AN ACT to legalize the organization of school district number 19, Richland county, Dakota Territory.
- AN ACT regulating the sale of intoxicating liquors in the city of Bismarck.
- AN ACT to provide for the payment to E. B. Dawson and Frank J. Mead, seventy two (\$72) dollars each for extra services as chief clerks of the council and house during the session of 1881.
- AN ACT establishing that part of school district number twelve (12) of Minnehaha county, Dakota Territory, comprising that tract of land embraced within the corporate limits of the town of Dell Rapids as an independent school district, to be designated as independent school district of Dell Rapids, of Minnehaha county, Dakota Territory.
- AN ACT providing for a board of education for the city of Jamestown, Dakota Territory, and regulating the management of public schools therein.
- AN ACT to annex certain territory to the Vermillion city school district, and for other purposes.
- AN ACT to change the name of Paul Johnson to Paul O. Thomt.
- AN ACT to change the name of Peder Halverson to the name of Peter H. Hall.
- AN ACT to authorize James P. Aney, administrator of the estate

- of Mary A. Aney, deceased, to sell and convey certain real estate of said defendant.
- AN ACT to reimburse John H. Cameron for losses sustained in building public school house at Sioux Falls, and for other purposes.
- AN ACT to reimburse Martin & Anderson for losses incurred in furnishing the iron work of the Dakota penitentiary at Sioux Falls.
- AN ACT to legalize the assessment of the city of Grand Forks, for territorial, county and city purposes for the year 1882.
- AN ACT to empower the county commissioners of Grand Forks county to re-district the county.
- AN ACT to authorize Jacob Brauch, administrator of the estate of Anna Brauch, deceased, to sell and convey certain real estate of said decedent.
- AN ACT amendatory of an act entitled "An act establishing school district No. 1 of Grand Forks, Dakota Territory."
- AN ACT for the relief of Wilson S. Goodwin and Truman L. Pratt.
- AN ACT authorizing the county treasurer of Lincoln county to collect school taxes voted by school district numbers fifty-five (55) and seventy-one (71) of Lincoln county at the annual meeting in 1882.
- A BILL for an act amending the act providing a board of education for the city of Fargo, Dakota Territory, and regulating the management of public schools therein, approved February 28, 1879.
- AN ACT to legalize the contract entered into between the city of Grand Forks and Alexander Griggs, E. W. Groosnor, Seymour S. Titus, J. Walker Smith, and John H. Lyons.
- AN ACT for the relief of taxpayers in Davison county.
- AN ACT to establish an independent school district in township one hundred and one (101) and one hundred and two (102) of range forty-seven (47) county of Minnehaha, Territory of Dakota.
- A MEMORIAL to the Congress of the United States praying that authority be granted to the Territory of Dakota and the Legislative Assembly thereof to authorize by general acts the formation of private corporations for the insurance of persons and property and the legalization by Congress of all insurance corporations heretofore incorporated and organized in the Territory of Dakota.
- A MEMORIAL to the President of the United States, senate and house of representatives in Congress assembled.

MEMORIAL and joint resolution praying for the re-appointment of Judge G. C. Moody to be associate justice of the supreme court of Dakota.

JOINT resolutions extending thanks of the Governor and the Legislative Assembly to General Manager Merrill of the Chicago, Milwaukee and St. Paul Railway and Superintendent Jackson for compliments and courtesies rendered the Governor and Legislative Assembly during their official visit to the territorial penitentiary.

JOINT resolutions returning thanks to the citizens of Sioux Falls for their cordial greeting, reception and entertainment on the occasion of the official visit of the Governor and Legislative Assembly to their city.

JOINT resolutions thanking the citizens of the city of Vermillion for attentions and hospitality extended to the Governor and Legislative Assembly on the occasion of their official visit to the University of Dakota.

INDEX TO GENERAL LAWS.

INDEX.

	PAGE
ACKNOWLEDGMENTS.....	1
Before whom taken.....	1
AGRICULTURAL COLLEGE.....	2
" " NORTH DAKOTA.....	8
Located at Brookings.....	2
Located at Fargo.....	8
Under what direction.....	2
Under what direction.....	8
Board, when to organize.....	3
Who to control funds.....	3
Who to control funds.....	9
Regents of, to make report.....	3
Meetings of.....	3
Meetings of.....	9
FUND,—college.	
Bonds to be issued.....	4
Bond tax to be levied.....	5
Directors.....	5
Contract and contractor's bond.....	6
Payment to contractor.....	7
Building to be accepted.....	7
Pay of directors.....	7
In case of territorial division.....	8
ANNUAL MEETINGS—	
School townships.....	92
Civil townships.....	234
ASSISTANT TERRITORIAL SUPERINTENDENT....	129
ATTORNEY GENERAL—	
Appointment and duties of.....	15
Shall keep records.....	15
Salary.....	14
ATTORNEY'S FEES--	
In forcible entry, etc.....	133
Under section 377 civil procedure.....	137

APPEALS.....	10
From board of county commissioners.....	10
Under land drainage act.....	183
In case of roads.....	272-3
APPORTIONMENT—	
Legislative assembly.....	12
ARMS.....	11
Accounts for freight to be audited.....	11
ASSESSORS—	
To furnish certificate.....	113
Township assessment.....	364
AGENTS, INSURANCE—	
Penalty for embezzlement.....	169
AUDITOR OF TERRITORY, DUTY OF.....	78
To deliver certified copy insurance company charter.....	156
To furnish blanks.....	158
To arrange insurance statement.....	160
May prevent publication of statement.....	161
May revoke certificate.....	163
Duty to make examination.....	163
Duty when insurance stock impaired.....	166
To publish statement.....	167
Fees.....	167
Report to be printed.....	210
COUNTY AUDITOR.....	289
APPROPRIATIONS—	
Agricultural college.....	4
Arms.....	11
Attorney general.....	15
Superintendent public instruction.....	70
Territorial library.....	201
Seat of government.....	217
Insane hospital.....	297-98
Insane hospital Jamestown.....	301
Printing codes, etc.....	305
Spearfish normal school.....	328
Deaf and dumb school.....	337-340
Penitentiary Sioux Falls.....	342-344
Penitentiary Bismaack.....	346-358
University of Dakota.....	369
University of North Dakota.....	377
BIBLE—	
In public schools.....	102
BLACK HILLS—	
Lawful fence.....	293
Highways.....	294

BOARD OF HEALTH	241
BONDS—	
Of school townships	124
Of former school districts.....	119
Land drainage.....	190
Of township officers.....	230
Township bonds.....	255
Insane hospital.....	298
Jamestown insane hospital.....	301
Agricultural college.....	4
Penitentiary.....	344-358
University.....	369-377
Deaf and dumb school.....	340
BRIDGES—	
Township, control of.....	256
Penalties for violating rules.....	275
CAPITAL OF TERRITORY—(<i>See seat of government.</i>).....	217
COUNTY COMMISSIONERS—	
Appeals from.....	10
Districts to be increased to five, when.....	360
Certain counties named	360
Certain counties exempt.....	361
COUNTY AUDITOR—	
Elected in certain counties.....	289
Duties of.....	290-91
Salary of deputy.....	290-91
Clerk hire.....	293
CAPITAL PUNISHMENT—	
Jury to decide punishment for murder.....	16
CAPITAL STOCK—	
Insurance companies.....	154
COMPULSORY EDUCATION.....	112
CORPORATE STOCK—	
Stockholders to consent to transfer.....	17
COUNTY SUPERINTENDENT.....	70-107
Salaries of in certain counties.....	363
COSTS IN CIVIL ACTIONS.....	17
Amount allowed.....	18
When act not to apply.....	18
Amount fee to attorneys.....	137
CHEROKEE CATTLE.....	227
CUSTER COUNTY—	
Lawful fence.....	293

COUNTIES, BOUNDARIES OF—

Allred.....	58
Benson.....	19
Bowman.....	56
Brown.....	21
Billings.....	57
Brule.....	24
Buford.....	59
Buffalo.....	25
Burdick.....	57
Butte.....	25
Codington.....	45
Cavalier.....	55
Choteau.....	60
Day.....	45
Delano.....	28
DeSmet.....	20
Dewey.....	29
Dunn.....	58
Edgerton.....	21
Ewing.....	56
Fall River.....	30
Faulk.....	31
Flannery.....	58
Foster.....	32
Harvey.....	34
Harding.....	57
Hyde.....	33
Hettinger.....	59
Inman.....	21
Jerauld.....	36
Jackson.....	29
La Moure.....	37
Martin.....	60
McCauley.....	21
McIntosh.....	39
McLean.....	38
McKenzie.....	58
Miner.....	46
Nelson.....	40-41
Nickens.....	42
Nowlin.....	28
Potter.....	31
Pyatt.....	28
Ramsey.....	20
Ransom.....	48
Rinehart.....	60
Roberts.....	44
Role'te.....	55
Rusk.....	29
Richland.....	45
Sargent.....	48
Sanborn.....	46
Schnassee.....	51
Scobey.....	28
Stanley.....	52
Steele.....	52
Sterling.....	28
Towner.....	54
Villard.....	56

Wallace	58	
Washington.....	59	
Washabaugh.....	60	
Wagner	60	
Wynn.....	61	
COUNTER CLAIM—		
In foreclosure.....	144-145	
CLERK OF COURT—		
To be elected.....	65	
Duty in drawing jury.....	174	
DEPOSITIONS—		
Before what officers taken.....	62	
DELINQUENT TAX SALE—		
Fee for publishing.....	134	
DELINQUENT TAXES—		
Railroad.....	212	
Township road.....	262	
DISTRICT ATTORNEYS—		
When to take appeal.....	10	
To be elected.....	63	
Only licensed attorney eligible.....	63	
Duties of.....	63	
Salary	63	
Prohibited from receiving fees.....	64	
When court to appoint.....	64	
Shall make statement.....	64	
Shall attend grand jury.....	65	
To prosecute.....	69	
To examine insurance charter.....	156	
To apply to court for order.....	164	
DOMESTIC ANIMALS—		
Trespass by.....	284	
DIVIDENDS—		
By insurance company.....	157	
DRAINAGE, Land.....		177
DEAF AND DUMB—		
School at Sioux Falls.....	337	
Trustees, mileage and meetings.....	338	
Duties of board.....	338	
Pupils	339	
BONDS, for building fund.....		340
Tax and interest.....	341	
Construction of building.....	341	
Appropriation	342	

EDUCATION—

Accounts of territorial superintendent.....	69
“ “ county superintendent.....	71
“ “ district treasurer, how kept.....	86-106
Actions against school townships.....	128
Administering oaths, county superintendent.....	74
Advanced schools.....	96
Age, legal of school children.....	87
Annual meeting, powers, etc.....	92, 93, 94, 126
Annulling teacher's certificate.....	72
Apparatus, purchase of.....	82
Appeals to territorial superintendent.....	70-73
Appointment to fill vacancy.....	80
Apportionment of tax money.....	88-89
Area of school townships.....	77-122
Assessor of county, duty of.....	113
Bible, how to be used.....	102
Blanks, how furnished.....	67-69
Board, school, for township.....	66, 79, 85, 98, 119
Bonds of treasurer.....	81
Bonds of treasurer to be filed before money paid.....	89
Bonds of school township.....	124
Bonds of former school districts.....	119
Books of record of county superintendent.....	73
Books of library.....	116
Books for needy pupils.....	83
Books sold or rented to pupils.....	84
Boundaries, alteration of.....	67
Branches to be taught.....	74, 94, 100
Census of school children.....	91
Certificate of territorial superintendent.....	68-75
Certificate to teach school in county.....	74-75
Certificate of probation.....	74-75
Certificate expiring during term.....	75
Certificate, how revoked.....	76
Certificate of election to office.....	80
Change of pupils to another school.....	91-97
Children deprived of school privileges.....	112
Circulars of instruction to school officers.....	69
City schools, apportionment to.....	89
City schools, reports of.....	115
Clerk, district, shall notice tax levy.....	84
Clerk, district, report.....	105
Clerk, county, furnish plat of townships.....	78
Clerk, county, duties in tax levy.....	85-126
Commissioners to adopt township system.....	121
Compensation of territorial superintendent.....	69
Compensation of county superintendent.....	71
Compulsory education.....	112
Conductors of institutes.....	115
Contract with teachers.....	100
Contract with unqualified teacher void.....	75
County commissioners divide county, etc.....	77
“ “ duties of.....	108-121
“ “ examine treasurer's report.....	107
“ superintendent elected.....	71-72
“ “ compensation, mileage, etc.....	71
“ “ charges against.....	71
“ “ duties and powers.....	72-107
“ “ financial duties.....	107

“ “ oath and bond.....	71
“ “ office room and records.....	73
“ treasurer, duty of.....	110
Counties exempt from law.....	120
Deputy territorial superintendent.....	66
Dismissal of superintendent from office.....	71
Dismissal of teacher.....	94
Disturbing school.....	102
Donations to schools, how used.....	90
Duties of county assessor.....	113
Duties of school moderator.....	92-112
Duties of township board.....	82-83-84
Duties of teacher.....	101
Duration of school term.....	84-122
Education compulsory.....	112
Election in school townships.....	79-125
Embezzlement of school funds.....	68-90
Employing unqualified teachers forbidden.....	75
English to be taught exclusively.....	102
Estimates of building, repairing, etc.....	94
Estrays, proceeds of sale.....	88
Excluding pupil from school.....	93
Examination of teachers.....	68-74
Expelling pupil by moderator.....	93
Expenses, contingent of school.....	83
Expenses of institutes.....	76
Exchange of libraries.....	116
Equalizing property of united districts.....	117-118
False report, penalty for.....	109
Fee for territorial certificate.....	68
Fee for application for certificate.....	75-76
Fine for insulting teacher.....	102
Fines, how collected.....	111
Fines paid to school fund.....	88
First election in school townships.....	80
Funds, four different.....	69
Funds, school.....	86
Grades of certificate.....	74
Graded schools.....	84-95
High schools.....	95
Holidays and Saturdays.....	101
Inspection of schools.....	72
Institute fund of county.....	76-113
Institute, duration of.....	113
Institute, conductors employed.....	114
Institute, township.....	99
Institute, days count as school half days.....	101
Insulting a teacher at school.....	102
Interest on warrants.....	87
Joint graded schools.....	97
Judgment, tax to pay.....	111
Justices, jurisdiction of.....	111
Legal remedies not abridged by this act.....	78
License money to go to school fund.....	88
Libraries, township, care of.....	115
Limited certificate, issued but once.....	74
Location of schools by township board.....	83-98
Loaning of money by treasurer, penalty.....	90
Losing money by treasurer's neglect.....	90-110
Maintaining school compulsory on district.....	123
Maps of county to be prepared.....	73

Meetings in school houses.....	116
Meetings, annual school district.....	122
Meetings, annual school.....	92
Meetings of township school board.....	85
Misappropriation of school funds.....	68
Moderator, election and duties.....	92
Moderator, custodian of school property.....	93
Money improperly drawn.....	90
Money donated to schools.....	90
Month of school.....	109
Names of school township.....	77-78
New school, how obtained.....	98
Notes of visits, superintendent may publish.....	73
Non-resident pupils.....	97
Notice of election.....	80
Notice of annual school meeting.....	93
Notice of tax levy.....	85
Notice of meeting of district board.....	85
Notice of teacher beginning term.....	101
Numbering all school houses.....	84
Oaths of officers of school township.....	83
Oaths administered by superintendent.....	74
Office, when vacant.....	110
Office room for county superintendent.....	73
Officers of election in school townships.....	79
Officers of school townships.....	79-122
Officers of school townships to qualify.....	81
Officers of school system.....	66
Organization of school townships.....	76-118
Papers, educational to be taken.....	99
Parents may demand school.....	112
Payment of funds to township treasurer.....	90
Penalty, officer refusing to qualify.....	81
Penalty for disturbing school.....	102
Penalty for false report.....	109
Penalty for withholding books, etc.....	110
Penmanship, special teacher of.....	97
Petition for new school.....	98
Powers of territorial superintendent.....	68
Powers of county superintendent.....	72-71
Powers of school board.....	82-83-84
Privileges of school, how secured.....	112
Privileges of school, who entitled to.....	100
Printing of blanks and forms.....	69
Procuring site against owner's will.....	103
Professional certificates.....	75
Protest against teacher.....	94
Public property, records, etc., of superintendent.....	73
Publication of school law.....	120
Pupils from other towns.....	97
Purchase of library books.....	115
Qualify, how officers shall.....	67-81-110-117
Qualify, refusal to.....	82
Qualifications of teachers.....	74-75
Records of county superintendent.....	78
Records kept open to inspection.....	109
Records and reports to be English.....	102
Recovery of funds from treasurer.....	81
Refunding of erroneous tax.....	89-111
Register to be furnished.....	101
Removal of territorial superintendent from office.....	67

Removal of school house.....	94
Repairs of school houses.....	94
Repeal of conflicting acts.....	120
Reports annual, of territorial superintendent.....	70-109
Reports of county superintendent.....	68-103-104
Reports of clerk to superintendent.....	105
Reports of treasurer, how examined.....	105-106-107
Reports of teacher.....	101
Reports of superintendent, salary withheld till made.....	72
Resignation of office.....	114
Returns of election.....	80
Revoking teacher's certificate.....	76
Rights and powers of district townships.....	67
Rules of schools, how adopted.....	83
Superintendent of public instruction.....	67
Superintendent of schools for county.....	67-71-72-73
Studies to be taught.....	98
Taxes, rates authorized.....	84
Taxes.....	88
Taxes to be uniform in school township.....	85
Taxes, how collected.....	89
Taxes to equalize school property.....	118
Taxes for school bonds.....	104-125
Teachers, who are qualified.....	75
Teachers, no pay to those unqualified.....	75
Teachers, how employed and paid.....	83
Teachers, dismissal of, and causes.....	94
Teachers for advanced schools.....	96
Teacher to return revoked certificate.....	76
Teachers of penmanship.....	97
Teachers shall attend township institutes.....	99
Teacher's contracts and conditions.....	100
Teacher's report to clerk and superintendent.....	101
Term of township schools.....	79-84
Term of officers of school township.....	119-122
Text books, adoption of.....	70-83
Title to school property.....	67
Township school board.....	67-99-119
Township to provide books.....	85
Township schools.....	91-92
Township institutes.....	99
Township organization of school townships.....	76-118
Townships, how divided.....	77
Townships, when civil become school.....	78
Treasurer, bonds of district.....	81
Treasurer's accounts, how kept.....	86
Treasurer to pay warrants.....	87
Treasurer to make reports.....	105-123
Treasurer's report, how examined.....	106
Treasurer of county, duties of.....	88-89-106
Transfer of pupil to other school.....	91-97-101
Tuition fund.....	86
Uniformity of school system.....	65
Uniting districts into district townships.....	114
Use of money by treasurer, penalty.....	89
Use of school house for other uses.....	99-114
Vacancy, territorial superintendent's office.....	67
Vacancies in office.....	80-94-110-114
Villages, incorporated.....	65
Visitation by territorial superintendent.....	67
Visitation by county superintendent.....	72

Visitation by moderators.....	92
Voting at elections, who entitled.....	92
Wages withheld till teacher files report.....	101
Warrants, how drawn, signed, paid, etc.....	87
Warrants to specify purpose of same.....	87
Warrants to draw interest if not paid.....	87
Words, how construed.....	118
ELECTIONS—	
BROWN county—special.....	22
Canvass of vote.....	23
BUTTE county—special.....	26
Assumes indebtedness.....	26
FALL RIVER—special.....	30
HARVEY county—special.....	35
JERARD county—special.....	36
NICKES county—special.....	43
SANBORN county—special.....	46
SARGENT county—special.....	48
STEELE county—special.....	53
GRIGGS AND TRAILL county—special.....	53
In school townships.....	79-125
Time of opening and closing polls.....	130
Town supervisors to be judges.....	131
Election district in towns.....	256
Of town officers.....	281
EMBEZZLEMENT—	
Insurance agent.....	169
EXEMPTIONS—	
Purchase money excepted.....	132
FEEES—	
To attorney in certain cases.....	133
For publishing delinquent tax sale.....	134
For publishing legal advertisements.....	135
Sheriff to endorse.....	136
In cases of foreclosure.....	139
Insurance company.....	167
Of surveyor and engineer.....	188
Of town officers.....	248
FEEES AND COSTS.....	137
FENCES—	
Railway company required to construct.....	140
In certain Black Hills counties.....	293
FIRE ESCAPES—	
Hotels required to construct.....	141
FISH COMMISSIONER—	
To be appointed.....	143

FISH—

Penalty for capturing at stated times.....	142
Providing for stocking streams with food fishes.....	143
In Goose river.....	295

FORECLOSURE—

Fee to party foreclosing.....	139
Counter-claim.....	144
Counter-claim—personal property.....	145

GAME—

Unlawful to kill.....	146
Unlawful to kill quail.....	147

GLANDERS—

Infected animals to be killed.....	148-149
------------------------------------	---------

HIDES—

Of slaughtered animals to be preserved.....	150
---	-----

HOTELS—

Required to keep fire-escapes.....	141
------------------------------------	-----

HIGHWAYS—

When to be located without viewers.....	151
Vacate roads.....	214-215-263
Laying out new road.....	215
Township control.....	256
Who to have charge of.....	257
Duties of overseers.....	257
County roads.....	266-7-8
Judicial district roads.....	270
Penalty for obstructing... ..	275
Watering places, draining, etc... ..	276
Seeding down.....	279
Recording roads.....	280
In Black Hills counties.....	295

HUSBAND AND WIFE—

When either may sell or encumber property.....	152
--	-----

INSANE HOSPITAL—

Appropriations for.....	297
Building west wing.....	298
Bonds to be issued.....	298-9
Payment of interest.....	299
Plans, contracts, etc.....	300-1

AT JAMESTOWN..... 301

Bonds for building.....	302
Tax, interest, etc.....	302
Bids, etc.....	303
Payments.....	304
Patients.....	304

INSURANCE—

Seven persons may form company.....	153
To file copy of charter.....	154
Capital stock.....	154-157
Stock subscriptions.....	155
Investment of capital.....	155
May hold real estate.....	156
Charter and by-laws.....	156
Dividends.....	157
May extend charter.....	157
Annual statement—form of.....	158-159
When prohibited from business.....	160
Shall deposit \$25,000.....	161
Shall designate party upon whom process served.....	161
What statement to show.....	162
Certificate of authority necessary before acting.....	162
Auditor may revoke certificate.....	163
When assets are insufficient.....	164
Thirty years limit.....	165
Impaired stock—proceedings.....	166
Statement of receiver.....	167
Fees paid by.....	167
Taxes.....	168
When unlawful to take insurance.....	168
Responsibility of agents.....	169
Twenty-five thousand dollars deposited.....	169

JAMES RIVER—

To preserve waters for domestic purposes.....	170
---	-----

JUDICIAL DISTRICT—

When judge to appoint road viewers.....	270
---	-----

JURY, PETIT—

To decide punishment for murder.....	16
--------------------------------------	----

JURORS—

Manner of drawing grand and petit jury.....	172
---	-----

JUSTICES—

Jurisdiction of.....	111-147
Duty in case of certain verdict.....	149
Town supervisors to select.....	173
Formation of board to select.....	174
Manner of drawing jury.....	174
Firemen exempt.....	175
Jury may be ordered, when.....	176
May impose fine for obscene language.....	202
Jurisdiction in certain case.....	208
Jurisdiction in certain Texas cattle case.....	228
Oath and bond.....	239
In case of delinquent road tax.....	261
In case of juvenile offenders.....	335

LAND DRAINAGE—

Who to have charge of construction.....	177
Petition.....	177

Appointment of viewers.....	177
Viewers, general duties of.....	178-179
Meeting of viewers.....	180
Remonstrance.....	181
Reviewers, meeting and duties of.....	181
Proceedings on report of reviewers.....	182
Appeals.....	183
Letting contracts.....	183
Inspecting work.....	185
Joint drain or ditch.....	187
Fees.....	188
Majority of viewers competent.....	189
BONDS—Land drainage.....	190
Draining highways.....	276
LAKE COUNTY—	
Vacating and changing road.....	215
LAWRENCE COUNTY—	
Lawful fence.....	293
LEGAL ADVERTISEMENTS—	
Fees for publishing.....	185
LEGALIZING ACTS—	
Election of town officers.....	132
William L. Chadwick, notary public.....	306
William R. Goodfellow, notary public.....	307
C. J. B. Harris, notary public.....	308
Edwin T. White, notary public.....	309
Vale P. Thielman, notary public.....	330
LICENSES—	
To go to school fund.....	88
In unorganized counties.....	196
LIBRARY, Territorial—	
Providing for insurance, etc.....	201
LEASING railroad lines.....	205
LIENS—	
Under land drainage.....	189
By filing transcript of judgment.....	197
Where actions may be brought.....	199
In favor of sub contractors.....	199
In cases of service of bull or stallion.....	200
LAWS—	
Appropriation for printing.....	305
Provision for printing codes and session laws.....	305
LEGISLATIVE ASSEMBLY—	
Employment of clerks.....	192-194-195
Assistant sergeant-at-arms.....	193

LINCOLN COUNTY—	
Exempt from certain act.....	189
NOTARY PUBLIC—	
Acts legalized.....	306-7-8-9-330
NAMES OF TOWNS—	
Certain names changed.....	332
NORMAL SCHOOLS—	
LAREMORE.....	310
Board of education, teachers, etc.....	311
Pupils, teacher's certificates.....	312
Expenses, vacancies, etc.....	313
Meetings and reports.....	313
MADISON.....	314-315-316
Appropriation.....	314
Sale of former tract of land.....	315
Bonds authorized.....	316
MINTO.....	317
Board of education to be appointed.....	318
Admission of pupils.....	319
Visitations and certificates.....	320
Funds and salaries.....	320
Vacancies, meetings, reports.....	321
PEMBINA.....	322
Building, supervision, etc.....	322
Reports, applications for admissions, etc.....	323
Visitations, certificates, funds.....	324
Salaries, meetings, reports.....	325
SPEARFISH.....	326
Revival of former act.....	326
Provision for forty acres of land.....	327
Meetings.....	328
Appropriation.....	328
SPRINGFIELD.....	329
Donation of land.....	329
Meetings.....	330
OBSCENE LANGUAGE—	
Penalty for using.....	202
PARDONS—	
Method of procuring.....	202-203
PENNINGTON COUNTY—	
Lawful fence.....	293
PRISONERS—	
Penalty for escaping.....	204

PROBATE JUDGE—

Salary of.....	216
Duties, in entering town-sites.....	282

PUBLIC OFFICES—

Where to be kept.....	204
-----------------------	-----

PENITENTIARY—

At Sioux Falls, appropriations for.....	342
Warden to make estimate.....	343

BONDS for construction fund

Treasurer to negotiate.....	344
Tax and interest	345
Payments.....	346

BISMARCK.....

Directors.....	347
To provide for building.....	347
Material to be used.....	347
Contracts and payments.....	348
Jurisdiction of Burleigh county.....	349
Warden and his duties.....	350
Bond of warden.....	351
Contracts by warden.....	351
Contractors bonds.....	352
Warden to take invoices of purchases.....	352
Receiving prisoners.....	353
Concerning solitary confinement.....	353
Concerning hard labor.....	354
Food, liquors, discipline.....	354
Discharge or death of convict.....	355
Conduct, reward for good.....	355
Leasing labor.....	355
Escaped convicts, capture.....	355
Bonds of contractors.....	356
Rules of prison.....	356
Reward for good behavior.....	357
Insane convict.....	357
Bismarck to donate land.....	358

BONDS.....

To provide building fund.....	359
-------------------------------	-----

PRIVATE LAWS—

Titles of.....	379
----------------	-----

QUAIL—

Unlawful to kill.....	147
-----------------------	-----

RAILROADS—

When required to build fence.....	140
Leasing railroad lines.....	205
Powers of corporations.....	206
Sales of certain property.....	206
Method of taxing.....	211
Penalty for bringing in certain cattle.....	228

RAPID CREEK—

To preserve the waters from impurities..... 207

RECEIVERS—

Insurance company..... 167

REPORTS—

Of school officers..... 41-42-43
Of territorial officers to be printed..... 210

REGISTER OF DEEDS—

Duties on petition for land drainage..... 180
To keep seal in certain case..... 208

RELIGIOUS CORPORATIONS—

Choosing officers..... 209
Manner of incorporating..... 209

ROADS—(*See highways*)..... 151

REFORM SCHOOL—

Located at Plankinton..... 332
Governor to appoint trustees..... 333
Compensation, duties..... 333
Records..... 334
Duties of superintendent..... 334
Duty of district and justice's court..... 335
Proceedings..... 336
Complaint and commitment..... 336
When inmate incorrigible... .. 337

REVENUE—

Railroad tax..... 211-214
Township assessor's duty..... 211

SALARIES..... 216-217-363

SALE OF REAL PROPERTY—

When made by either husband or wife..... 152

SEAT OF GOVERNMENT—

Removed from Yankton..... 217
Names of capital commission..... 217
Bond and oath..... 218
Shall select site..... 218
Sale of lots, etc..... 219
Moneys, with whom deposited..... 219
buildings, contract, etc..... 220
Report to legislature..... 221
Temporary capital..... 222

SECRETARY OF TERRITORY—

Contract to be recorded in office..... 207
To let contract for printing laws..... 305

SECURITY—	
When debtor is about to remove	222
SCHOOLS—(See education).....	
	66
SHERIFF—	
To endorse fees when return is made	136
To serve certain papers.....	188
SUMMONS—	
Agent to be appointed to receive	223
When fee not allowed for service in justice court.....	362
Same in district court.....	362
STOCKHOLDERS—	
Insurance company.....	164-165
SURVEYOR, COUNTY—	
To make examination.....	185
Fees.....	189
To make plat of road.....	270
TAXES—	
Insurance company.....	168
On railroad property.....	211
For improvement of streets, etc.....	224
Town taxes.....	252
Town bond tax.....	255
Insane hospital bond tax.....	299-302
TAX COMMISSION—	
Governor to appoint.....	225
Duties of.....	225-226
TELEGRAMS—	
Penalty for revealing contents.....	226
TELEPHONE COMPANIES—	
Empowered with certain rights.....	227
TREASURER, TERRITORIAL—	
Report to be printed.....	210
Proceedings to collect railroad tax.....	212
Salary of.....	217
TOWNSITES—	
When entered under townsite laws.....	281
Surplus lots, how disposed of.....	282
Appraisal of lots.....	282
Bids, private sale.....	283
Proceeds, how disposed of.....	283
TRESPASS OF ANIMALS.....	
	284

TEXAS CATTLE—

Prohibited from entering territory	227
Unlawful to possess.....	228
Fines, how disposed of	228
Who to be liable for damage.....	229
Proof necessary.....	229
Definition of prohibited cattle.....	230

TOWNSHIPS AND TOWNSHIP GOVERNMENT..... 231

Township clerk to post juror notices.....	173-235
Township clerk's duty in land drainage	180
County board to fix boundaries.....	232
Name	232
First meeting.....	233
Corporate powers	233
Annual meetings and powers.....	234
By-laws	235
Special meetings.....	235
Manner of conducting meetings and elections.....	236-237
In case of failure to elect.....	238
Qualification of officers.....	238
Vacancies.....	240
Board of health.....	241
Supervisors, powers and duties.....	243
Clerk's duties.....	244
Treasurer's duties.....	245
Board of audit.....	246
Board of review	247
Fees of officers.....	248
Claims and accounts, how stated.....	249
Suits.....	250
Town charges and taxes.....	252
Guide posts.....	252
Public places to be designated.....	253
Pounds	254
Payment of indebtedness.....	255
Bonds.....	255
Bond tax.....	255
Roads and road supervisors.....	256-7-8
Road taxes, etc.....	258
General duties of road overseer.....	257-8-9
Disposition of fines.....	261
Pay of overseer.....	261
Laying out and changing roads.....	263
Notice, proceedings, etc.....	264
Damages.....	265
Road or town line.....	266
Public cartways.....	267
County roads.....	268
Judicial district roads.....	270
Notices, assistants, etc.....	271
Plats	271-2
Appeals from county board, etc.....	272
Penalty for obstructing highway.....	274
Bridge regulations	275
Watering places on highways.....	276
Draining highways.....	276-7
Seeding down.....	279
Election of town officers.....	281

UNIVERSITY OF DAKOTA—

Objects.....	365
Government.....	365
No sectarian control.....	365
Regents, vacancies.....	366
Departments of colleges.....	366
Meetings, finances.....	366
Buildings.....	366
Officers of board.....	367
Rules for government.....	367
Apparatus, cabinet, etc.....	367
Reports, mileage.....	368
Present board to succeed to, what... ..	368

BONDS—

To provide building fund.....	369
Proposals for bonds.....	369
Bond tax.....	369
Interest, appropriation, etc.....	370
Salaries.....	370

NORTH DAKOTA UNIVERSITY—

Board of regents.....	371
Meetings.....	372
Regulations, funds etc.....	372
Report of regents.....	373
Powers of president.....	373
Objects of the university.....	373
Courses of instruction.....	374
Who to become pupils.....	374

UNIVERSITY—

Tuition of pupils.....	374
Appropriation, tax, etc.....	375
Astronomical apparatus.....	375
Pay of regents.....	375
Certain sections stricken out.....	376

WARRANTS—

School.....	87
-------------	----

WEEDS.

Noxious weeds to be destroyed.....	377
Manner of complying with act.....	377
Penalty for failure.....	378