

township ninety-two (92), north, range fifty-two (52), west, and the north west fractional quarter ($\frac{1}{4}$), of the north west fractional quarter ($\frac{1}{4}$), of section (19), township ninety-two (92), north of range fifty-one (51), west of the 5th principal meridian, in the territory of Dakota.

Take effect
when.

Sec. 2. This act shall take effect from and after its passage and approval by the governor.

APPROVED January 6, 1863.

C O R P O R A T I O N S

CHAPTER 41.

AN ACT TO AUTHORIZE THE FORMATION OF THE MINING, MANUFACTURING AND BANKING COMPANY OF NORTH AMERICA.

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

Name of incor-
porator.

Section 1. That Lyman W. Gilbert and his associates are hereby constituted a body politic and corporate, under the name and style of "The Mining, Manufacturing and Banking company of North America," to be located at some convenient point in the territory of Dakota, for the purpose of carrying on the mining, manufacturing and banking business, and to continue in existence for a period of fifty years, with power to make and use a common seal, and to alter and change the same at pleasure, and to make and adopt such by-laws, not inconsistent with the laws of this territory and of the United States, as they may deem useful and necessary; to sue and be sued, to plead and be impleaded, to hold by purchase or in any other lawful manner, and to dispose of the same in any way, all real estate and personal property which may be deemed necessary or useful for carrying on their operations, which they may become possessed of, in payment of debts due to said corporation.

Powers of in-
corporation.

Sec. 2. *Be it enacted*, That the capital stock of said corporation shall not be less than one hundred thousand dollars, nor more than ten hundred thousand dollars, to be divided into shares of fifty dollars each. The amount of capital stock to be fixed by the associates at their first meeting; but if not fixed at the maximum amount of ten hundred thousand dollars, the stockholders may increase the same to the amount of ten hundred thousand dollars, or to any sum less than that, and above the amount of one hundred thousand dollars, at any regular meeting of the stockholders, properly notified beforehand of the intention to increase the said capital stock.

Capital stock,
how divided.

Sec. 3. *Be it enacted*, That the said Lyman W. Gilbert, and his associates, shall have the right to invest such portion of the capital stock of the said corporation in mining and manufacturing property as they shall deem for the best interests of the company, and such property may be received by them in payment for subscriptions to the said capital stock. The subscriptions to the capital stock to be obtained by opening books for subscriptions in the territory of Dakota, or elsewhere, for general subscriptions, or by private and personal subscriptions, as the said Gilbert and his associates may deem most desirable. The first meetings of the associates to be held at such time and place as they may deem most convenient and desirable.

Capital stock,
how to be invested.

Sec. 4. *Be it enacted*, That the said corporation shall, at all proper times, between the hours of ten o'clock A. M., and three o'clock P. M. of each business day, redeem, on demand, any and all notes they may have issued for circulation, at the counter of their banking house, in gold or silver, or in the current bank or federal notes, circulating in the territory; and upon a failure so to do, they shall be liable to protest and prosecution by the holder or holders of such note or notes, and shall also be prohibited from issuing more notes for circulation, until the same same shall have been redeemed and paid, together with all costs thereon. And in the event of such failure to redeem their notes, the legislative assembly of this territory reserve the right to repeal this act, thereby annulling the banking power given herein to said corporation.

Shall redeem
notes, when and
how.

Penalty for failure to redeem
notes.

Sec. 5. *Be it enacted*, That all subscribers to the capital stock who shall not have paid their subscriptions according to

Subscribers who
have not paid
subscriptions
shall be liable.
&c.

the terms agreed upon, shall be liable to the creditors of the said corporation, for all amounts remaining unpaid on their said subscriptions, and may be proceeded against in the usual way and manner for the collection of the same.

How stock shall be transferred.

Sec. 6. *Be it enacted*, That no subscriber to the said capital stock of said corporation, shall be allowed to transfer the share or shares subscribed for by him or her, until his or her subscription is fully paid, without a vote of the directors of the said corporation granting permission so to do.

Notes issued for circulation to be signed by president and cashier.

Sec. 7. *Be it enacted*, That all notes of the said corporation, issued for circulation, which shall not exceed in amount the capital stock paid in, shall be registered and signed by the president, and countersigned by the cashier of the company; and no notes shall be issued of a less denomination than one dollar.

Business to be managed by board of directors.

Sec. 8. *Be it enacted*, That the business of the said corporation shall be managed by a board of directors, consisting of not less than three, no more than nine persons, one of whom shall be elected president. The directors shall be elected annually, but a failure to elect shall not work a forfeiture of this charter, but the directors of the previous year shall continue in office until others are elected in their stead.

Directors, how elected.

Place of meeting of stockholders.

Sec. 9. *Be it enacted*, That the meetings of the stockholders may be held at such times and places as the directors may appoint, giving due notice of such meetings in some newspaper published in this territory. The first meeting of the corporators to be held at such time and place as may be most convenient for them.

President and cashier must make statement of capital stock, &c., and file the same in the office of territorial auditor.

Sec. 10. *And be it enacted*, That when said associates shall have fully organized under this act, which shall be within three years from and after the date of this act, and before they shall proceed in the transaction of their general business, they shall cause a statement signed and sworn to by the president and cashier of said company, before some officer authorized by law to administer an oath, to be filed in the office of the auditor of the territory of Dakota; said statement shall show the amount subscribed to the capital stock of said company, by whom subscribed, the place of residence of each subscriber, and the amount of each such subscription paid in. And this statement

shall be made thereafter at least once each year. And after the organization of said company, a statement each year shall be made, signed, and sworn to as stated in this section, showing the amount of capital stock paid in, the amount of specie and current funds on hand, the value of real estate and personal property owned by the company, the amount of money owing to the corporation, and the amount of the issue in circulation, and other liabilities of the company, which statement shall be filed in the office of the territorial auditor, and a copy of the same published in a newspaper in said territory. And said company failing in any or either of the provisions or requirements specified in this section, shall thereby forfeit their charter.

Sec. 11. *And be it further enacted,* That the said company, before issuing any bills for circulation in this territory, shall deposit with the auditor of this territory, government or state stocks, equal in amount to the amount of bills which said company may desire to issue for general circulation, and said auditor shall issue to said company his certificate for the amount so deposited, and said company shall not issue for general circulation a larger amount of the bills of said company than the amount specified in the said auditor's certificate, but said company shall be allowed from time to time to add to the amount so deposited, and to increase the amount of their issue in like proportion, and said amount so deposited shall be considered a security for the redemption of the bills of said company, as provided in this charter: *Provided,* that said territorial auditor shall, before receiving said deposits, give a bond in addition to his official bond in the penal sum of double the amount of stocks to be deposited with him by said company, with ample sureties, to be approved by the secretary of this territory, which bond shall be filed in the office of said secretary, and the conditions thereof shall be, that said auditor shall safely keep and account for the whole amount of the stock so deposited with him in trust for the holders of the bills of said company; to dispose of the same or a portion thereof, for the redemption of such protested bills, upon the order of a court of competent jurisdiction; to return said stocks to said company upon the redemption of the bills in circulation, or upon the withdrawal or reduction

Before issuing notes for circulation shall deposit securities with the territorial auditor.

Territorial auditor shall give bond.

of the amount of such bills in circulation, and to hand over to his successor in office all such stocks remaining in his hands, so soon as his said successor shall have given the bond required in this section; and said company or any person or persons may bring suit on said bond before any court of competent jurisdiction in this territory, and if said auditor should refuse or fail to give the bond herein required, after being notified by the secretary of the territory so to do, any other territorial officer upon giving the bond herein required, shall have all the powers, and shall perform all the duties as are by this section conferred upon the auditor, and required of him to do, but until the bond herein required be given by the auditor or other territorial officer, the provisions of this section shall not be binding upon said company. Said company shall pay said auditor, or other officer the sum of two mills per cent. per annum upon the amount deposited, as herein provided.

Compensation
to territorial
auditor.

Take effect
when.

Sec. 12. This act shall take effect from and after its passage and approval by the governor.

APPROVED January 3, 1863.

CHAPTER 42.*

AN ACT TO INCORPORATE THE UNIVERSITY OF DAKOTA.

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

University of
Dakota.

Section 1. That there shall be established in this territory an institution under the name and style of the University of Dakota.

Interest on cer-
tain lands ap-
plied to support
of University.

Sec. 2. That the proceeds of all lands that may hereafter be granted by the United States to the territory for the support of a university shall be and remain a perpetual fund to be called the "University Fund," the interest of which shall be appropriated to the support of the University of Dakota.

Sec. 3. That the government of the university shall be vested in a board of eighteen regents, who shall be elected by the legislature as hereinafter provided.

University to be governed by board of regents.

Sec. 4. That the first board of regents shall consist of Wm. E. Gleeson, John R. Wood, A. J. Harlan, J. L. Paine, F. D. Pease, B. E. Wood, J. W. Boyle, W. W. Brookings, John Hutchinson, James McFetridge, A. W. Puett, J. H. Shober, M. K. Armstrong, Philemon Bliss, L. B. Bothun, M. Hoyt, Geo. M. Pinney, and Enos Stutsman, who shall be divided into classes as follows: The six first named shall constitute the first class, and shall hold their office for two years; the six next in order shall constitute the second class, and shall hold their office for four years; the remaining six shall constitute the third class, and shall hold their office for six years from the fourth day of March, A. D. one thousand eight hundred and sixty-three; and biennially hereafter there shall be elected in joint convention of both houses of the legislature, six members to supply the vacancies made to occur by the provisions of this section, and who shall hold their offices for six years respectively.

First board of regents.

Sec. 5. That vacancies in the board of regents, other than regular vacancies, shall be filled by appointment by the governor, and the person or persons so appointed shall continue in office until the close of the session of the legislature next thereafter and until others are elected in their stead.

Vacancies in boards of regents, how filled.

Sec. 6. That the regents of the university and their successors in office shall constitute a body corporate, with the name and style of the "Regents of the University of Dakota," with the right, as such, of suing and being sued, of contracting and being contracted with, of making and using a common seal and altering the same at pleasure.

Power of regents.

Sec. 7. That the board of regents shall appoint a secretary, treasurer, and such other officers as they may see fit, who shall hold their office during the pleasure of the board. They shall have power to define the duties of said officers; to require them to give suitable bonds for the faithful performance of the same, and to pass such by-laws and rules of order for their own government as they may see proper.

Regents shall appoint secretary, &c.

Sec. 8. That the regents, as soon as they may deem it expe-

Regents shall procure site for

erection of
buildings.

dient, shall procure a suitable site for the erection of university buildings, and they may proceed to the erection of the same as soon as funds may be provided for that purpose, after such plan or plans as shall be approved by a majority of said board.

Shall enact laws
for the govern-
ment of Univer-
sity, &c.

Sec. 9. That all the regents shall have power and it shall be their duty to enact laws for the government of the university; to elect a chancellor, who shall be *ex officio* president of the board of regents, but in his absence, or previous to his election, they may appoint one of their own number president *pro tem*. They may also appoint the requisite number of professors and tutors, and such other officers as they may deem expedient; also, to determine the amount of their respective salaries: *Provided*, that the salaries so determined shall be submitted to the legislature for their approval or dissent.

University shall
consist of five
departments.

Sec. 10. That the university shall consist of five departments; the department of science, literature and art; the department of law; the department of medicine; the department of the theory and practice of elementary instruction, or the normal department, and the department of agriculture. The immediate government of the several departments shall be intrusted to their respective faculties; but the regents shall have power to regulate the course of instruction, and prescribe, under the advice of the professors, the books and authorities to be used in the several departments: and also to confer such degrees and grant such diplomas as are usually conferred and granted by other universities.

Regents have
power to re-
move officer.

Sec. 11. That the regents shall have power to remove any officer connected with the institution whenever, in their judgment, the interests of the university require it.

Charges and
tuition fee reg-
ulated by re-
gents.

Sec. 12. That the admission fee to the university and the charges for tuition in the several departments thereof, shall be regulated and prescribed by the board of regents; and as soon as in their opinion the income of the university fund will admit, tuition in all the departments shall be without charge to all students of the same, who are residents of the territory.

Certain powers
conferred on
regents.

Sec. 13. That the regents are authorized to expend such portions of the fund which by the provisions of this chapter may come under their control as they may deem expedient for

the purchase of apparatus, a library and a cabinet of natural history, but not in the erection of buildings; and the selection, management and control of all lands which may hereafter be granted by congress for the endowment of said university is hereby vested in the board of regents.

Sec. 14. That the regents shall have power and it shall be their duty, as soon as the requisite funds shall have been secured for that purpose to establish a preparatory department of said university and employ a principal and other teachers for the same, whose salaries may be paid from the interest of the university fund in the same manner as are those of the chancellor and professors, which preparatory department may be discontinued whenever the regents may think proper after the other departments of said university shall have been established.

When regents shall establish preparatory department, and when may discontinue same.

Sec. 15. That the regents shall make a report annually to the legislature at its regular session exhibiting the state and progress of the university in its several departments, the course of study, the number of professors and students, the amount of expenditures and such other information as they may deem proper, or as may from to time to time be required of them.

Regents shall make annual report to legislature.

Sec. 16. That meetings of the board may be called by the chancellor and any six members or by any ten members thereof, and a majority of said board shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.

By whom meetings of board shall be called.

Sec. 17. That the regents, if they shall deem it expedient, may receive into connection with the university any college within the territory upon application of the board of trustees; and such college, so received, shall become a branch of the university, and be subject to the visitation of the regents.

Other colleges may become branches of university.

Sec. 18. That no religious tenets or opinions shall be required to entitle any person to be admitted as a student in said university; and no such tenets or opinions shall be required as a qualification for any professor, tutor or officer of said university, nor shall any sectarian instruction be allowed therein.

Sectarianism prohibited.

Sec. 19. That the legislative assembly may, at any time, alter, amend, modify, or repeal this act.

Legislature may alter, &c., this act.

To take effect,
when.

Sec. 20. That this act shall take effect from and after its passage and approval by the governor.

* See Governor's message No. 2, printed at conclusion of general laws.

CHAPTER 43.

AN ACT INCORPORATING THE RACINE AMENI TRANSPORTATION AND MINING COMPANY.

Be it enacted by the Legislative Assembly of the Territory of Dakota as follows:

Names of mem-
bers of incor-
poration.

Section 1. That Joseph LaBarge, jr., John B. LaBarge, Charles E. Galpin, Samuel Gaty, Ralph Tellew, Eugene Jaccard, and Darius Kunkins and their associates be and they are hereby constituted and made a body politic, and corporate with succession, by the name of the Racine Ameni Transportation and Mining Company, and by that name may contract and be contracted with, sue and be sued, plead and be impleaded within all courts of law and equity and elsewhere, may have a corporate seal, and are hereby vested with all the power and privilege necessary to carry into effect the object and purpose of this corporation.

Amount of capi-
tal stock.

Sec. 2. The capital stock of said company shall not be less than seventy-five thousand dollars, (\$75,000) nor to exceed two hundred thousand dollars, (\$200,000) to be divided into shares of one hundred dollars each, which shall be taken and held as personal property, and transferable in the manner pointed out by the by-laws of said company. Each share shall entitle the holder to one vote, which may be cast in person or by proxy.

Company to be
managed by
board of direct-
ors.

Sec. 3. The said Company shall be managed by a board of directors, one of whom shall be president, to be elected by the board, which board shall consist of seven members, to be elected by the stockholders. The incorporators named in the first section of this act shall be the first board of directors, and shall

hold their offices until their successors are elected and qualified. The said board shall have power to pass all needful by-laws, rules and regulations for their government, not inconsistent with this charter, or in contravention of the laws and constitution of the United States.

Sec. 4. The object of said company shall be for the purpose of building for their own use, equipping, furnishing, fitting, purchasing, chartering or owning steamboats or other vessels or property, and to do all other acts and things necessary to be used in lawful business, commerce, trade or navigation upon [the] Missouri or its tributaries, or either of them, and for the carriage, transportation, or storing of lading, freight, property, mails, or passengers on said river or its tributaries, or either of them; and to carry on the business of mining for gold, silver, and all other minerals in the Territory of the United States known as Dakota, with power to buy and sell land, to erect quartz, grist and saw mills, smelting furnaces, canals, and all other works necessary to carry on said mining and milling; and to own, have, hold, buy and sell all property, real, personal or mixed, that may be necessary or proper for carrying on the business of said corporation.

Object of company.

Sec. 5. The officers of said company shall be a president and secretary, and such others as may be prescribed or established by the by-laws of said company.

Officers of company.

Sec. 6. The directors shall have power to appoint and employ all such officers, agents, superintendents and laborers as they may deem necessary to carry on the business.

Powers of directors.

Sec. 7. Books for the subscription of stock shall be opened at the office of the company in Yankton city, and also at such other places as may be directed by the corporators, or board of directors, and shall be kept open for such a length of time, and subscription shall be made under such rules as the said corporators, or board may prescribe.

Books of subscription shall be opened, in Yankton.

Sec. 8. The said company shall make their principal depot for the transfer of property, the payment of men, the chartering or purchasing of boats, packing of furs, purchasing of gold dust, &c., and the transaction of all the business pertaining thereto, at Yankton, in the territory of Dakota; and this point shall be deemed head quarters for said company, and all other

Principal place of business of company, where established.

points or places of business established by said incorporation shall be deemed and considered as agencies, and all such agencies shall make return of property, and reports of the business of their respective agencies at Yankton, at which place the business of said incorporation shall be consolidated.

Take effect
when.

Sec. 9. This act shall take effect and be in force from and after its passage, and the legislative assembly hereby reserve the right to alter, amend, or repeal this act or any part thereof at pleasure.

APPROVED January 3, 1863.

H A B E A S C O R P U S .

CHAPTER 44.

AN ACT REGULATING THE PROCEEDINGS ON HABEAS CORPUS.

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

Application for
writ of habeas
corpus.

Section 1. If any person shall be committed or detained for any criminal or supposed criminal matter, it shall and may be lawful for him to apply to the supreme or district court, in term time, or any judge thereof in vacation, for a writ of habeas corpus, which application shall be in writing, and signed by the prisoner or some person on his behalf, setting forth the facts concerning his imprisonment, and in whose custody he is detained, and shall be accompanied by a copy of the warrant or warrants of commitment, or an affidavit that the said copy has been demanded of the person in whose custody the prisoner is detained, and by him refused or neglected to be given. The said court or judge to whom the said application shall be made, shall forthwith award the said writ of habeas corpus, unless it shall