

for the year in which they are issued, are hereby declared unlawful, unless the county commissioners shall be first authorized by a majority of the legal voters of said county at any election when the proposition shall be submitted to them.

Warrants bear upon their face amount levied and drawn. Commissioners liable for over-issue.

SECT. 2. All warrants shall bear upon their face the amount of said tax levied, and the amount that warrants have been drawn for, and all warrants drawn for a larger amount than is authorized by law, the county commissioners shall be personally liable for the same.

Take effect, when.

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

Approved May 14, 1862.

W. JAYNE, *Governor.*

COURTS AND JUDGES.

CHAPTER 26.

AN ACT TO AUTHORIZE HOLDING SPECIAL TERMS OF THE DISTRICT COURT IN CERTAIN COUNTIES [CASES].

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

If judge falls in regular term, may hold special, when.

SECTION 1. That if the judge of any district court in this territory shall, for any reason whatever, fail to hold court in any county in his district, at the time prescribed by law, such judge may order and hold a special term of the district court in such county, whenever the business of the county or the court shall, in the opinion of the judge, require it.

When special term is held, notice to be given.

SECT. 2. When a special term of the said court shall be held in any county, the presiding judge of the district shall direct notice of the time of the court to be given at least twenty days prior to the sitting of the same, in a newspaper of the county, if there be one; if not, then in some paper in the nearest or adjoining county.

SECT. 3. All causes undisposed of in said court may be ^{Causes tried same as in regular term.} tried and determined at the special term, the same as at a regular term of the court.

SECT. 4. The chief justice of the supreme court shall have ^{Chief justice may call special terms of supreme court.} power to call special terms of the supreme court of the territory in the same manner as is prescribed for holding special terms of the district court.

SECT. 5. This act to be in force from and after its pas- ^{Take effect, when.} sage, and approval by the governor.

Approved May 14, 1862.

W. JAYNE, *Governor.*

CHAPTER 27.

AN ACT FIXING THE TIME OF HOLDING A SPECIAL TERM OF COURT IN THE THIRD JUDICIAL DISTRICT.

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

SECTION 1. That there shall be a special term of the ^{Special term to be held.} United States district court held in the third judicial district of this territory.

SECT. 2. That said term of court shall begin on the first ^{When and where held.} Monday in June, A. D. 1862, and shall be held in the town of Bon Homme.

SECT. 3. This act shall take effect and be in force from ^{Take effect, when.} and after its passage, and approval by the governor.

Approved May 13, 1862.

W. JAYNE, *Governor.*

CHAPTER 28.

AN ACT CONCERNING THE POWERS OF DISTRICT JUDGES.

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

In case of
vacancy or dis-
ability, judge of
another district
may act.

SECTION 1. That whenever a vacancy shall occur in the office of district judge of any district in this territory, or whenever it shall appear by an affidavit, to the satisfaction of any district judge in the territory, that the judge of any other district is unable to act, on account of sickness, interest, or absence from the district, or from any other cause, the judge to whom application may be made, shall have power to make any order, or do any act relative to any suit, judicial matter, or proceeding, or to any special matter arising within the district where such vacancy or disability exists, which the judge of such district court could make or do, and the order or act shall have the same effect as if made or done by the judge of such district.

Take effect,
when.

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

Approved May 13, 1862.

W. JAYNE, *Governor.*

CHAPTER 29.

AN ACT RELATING TO CLERKS OF THE DISTRICT COURTS.

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

Clerks, how ap-
pointed.

SECTION 1. There shall be appointed a clerk of the district court, in each of the organized counties in this territory, which appointment shall be made by the judge of the district in which such county is situated, in writing, under his hand, and may be revoked at any time by said judge.

Office at
county seat.

SECT. 2. The clerk appointed in pursuance of the preceding section, shall keep his office at the county seat of his county.

SECT. 3. Before entering upon the duties of his office, each clerk of the district courts of this territory shall execute a bond to the treasurer of his county, with two or more sufficient sureties, to be approved by the said treasurer, in the penal sum of one thousand dollars, conditioned for the faithful discharge of his duties as clerk of the district court of his county. The said clerk shall also take and subscribe an oath or affirmation, that he will support the constitution of the United States, and faithfully and honestly discharge the duties of his office, which oath or affirmation shall be certified on the back of said bond, and filed with the treasurer of the county.

To give bond
and take oath.

SECT. 4. Any person who may, at any time, be injured or aggrieved by reason of the violation of the duties of his office, on the part of any such clerk of the district court, or by any wilful neglect or refusal to perform any of the duties pertaining to the office of clerk of the district courts, as the same are or may be prescribed by law, may institute legal proceedings upon the bond of such clerk, and collect thereon double the amount of damages actually sustained by such aggrieved person, which suit may be brought before any court having competent jurisdiction, and the county treasurer is also authorized and required for every such violation or neglect of duty, to collect a fine of not less than fifty dollars, for any such violation of duty, or refusal or neglect on the part of said clerk of the district court.

If he neglects
or refuses to do
duty. Penalty.

SECT. 5. It shall be the duty of the clerk of the district court to perform all duties which are or may be assigned him by law, and by the rules of the court of which he is clerk, made in pursuance of the statute in such case provided.

Duties.

SECT. 6. Each and every clerk of the district court may, at his discretion, with the sanction of the judge of his court, appoint a deputy clerk of the district, for whose acts the said clerk shall be responsible. The said deputy shall be appointed under the hand and official seal of the clerk, with the sanction of the judge indorsed on the back of such appointment.

May appoint
deputy, how.

SECT. 7. Before any deputy clerk of the district court shall enter upon the duties of his office, he shall take and subscribe the same oath or affirmation prescribed and required

Deputy to take
oath and give
bonds.

to be taken by the clerk of the district court, which oath or affirmation, together with the appointment of such deputy clerk, shall be filed with the treasurer of the proper county; and any clerk of the district court may, at any time, remove any deputy appointed by him, under the provisions of this act.

May remove deputy.

In absence of clerk, deputy may perform duties.

SECT. 8. In the absence of the clerk of the district court from his office or from the court, the deputy, appointed under and in pursuance of the provisions of this act, may perform all the duties pertaining to the office of clerk of the district court.

Take effect, when.

SECT. 9. This act shall take effect on and after its passage.

Approved April 24, 1862.

W. JAYNE, Governor.

DEEDS, MORTGAGES, & C.

CHAPTER 30.

AN ACT TO PROVIDE FOR THE RECORDING OF DEEDS, MORTGAGES, BONDS, CONTRACTS, AGREEMENTS, &C.

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

To be recorded within three months, where.

SECTION 1. All deeds, mortgages, bonds, contracts, agreements, or other instrument concerning any interest in lands in this territory, made in writing under seal, attested by one or more witnesses, and acknowledged before some person authorized by law to take acknowledgments of deeds, shall be recorded in the office of the register of deeds of the county where the land lies, within three months of the date of such instrument.

Duty of register to record all such.

SECT. 2. It shall be the duty of the register of deeds of each county within this territory, to receive and record at