

so that the boundaries thereof may be easily traced, and the extent of such claim easily known, by the owner thereof placing or having placed within three months after the passage of this act, or thirty days after the taking of such claim, a post at each corner of said claim, having the name of the owner of such claim marked or written on said post or stakes, stating which corner of said claim said post is intended to designate, and no person shall be entitled to the provisions or protection of this act unless he or she be a citizen of this territory, unless he or she have improvements made on said claim every six months to at least the amount of twenty dollars, or has a crop growing on said claim, or resides upon the same.

SECT. 4. A neglect to occupy or cultivate such claim for the period of six months, shall be considered such an abandonment as to preclude the claimant from maintaining either of the aforesaid actions. Neglect to cultivate six months, deemed abandonment.

SECT. 5. This act shall take effect on and after its passage. Take effect, when.
Approved April 30, 1862.

W. JAYNE, *Governor.*

RELIGION.

CHAPTER 68.

AN ACT TO FORM AND REGULATE RELIGIOUS SOCIETIES.

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

SECTION 1. It shall be lawful for all persons of full age Trustees elected. how. belonging to any church, congregation, or religious society, not already incorporated, to assemble at the church or meeting-house, or other place where they stately attend for divine worship, and by a plurality of votes elect any number of discreet persons of their church, congregation, or society, not less than three nor more than nine in number, as trustees, to take charge of the estate and property belonging thereto, and to transact all affairs relative to the temporalities thereof.

SECT. 2. It shall be lawful for any such church, congrega-

President
chosen, how —
who may vote.

tion, or religious society to choose a president of the said corporation, and of their meetings by a vote as aforesaid; and, at the election provided for in this chapter, every person of full age, who has stately worshipped with such church, congregation, or society, and has been formerly considered as belonging thereto, shall be entitled to a vote.

Notice of elec-
tion to be given,
how.

SECT. 3. The minister of such congregation or society, and in case of his death or absence, one of the elders or deacons, church-wardens or vestrymen thereof, and, for want of such officers, any other person being a stated hearer in such church, congregation, or society, shall publicly notify the congregation of the time when and the place where the said election shall be held, at least fifteen days before the day of election; and such notification shall be given for two successive Sabbaths, on which such church, congregation, or society shall stately meet for public worship preceding the election.

Who receives
votes, and deter-
mines qualifica-
tions of voters.

SECT. 4. Any two of the elders, deacons, church-wardens, or vestrymen of such church, congregation, or society, or, if such officers shall not be present, then any two voters present, to be nominated by a majority of the voters, shall preside at such election, receive the votes and determine the qualifications of voters; and they shall, immediately after the election, certify, under their hands and seals, the names of the persons elected to serve as trustees, in which certificate the name by which the said trustees, under their successors in office, shall forever thereafter be called and known, shall be particularly mentioned and specified.

Certify who is
elected.

Certificate
acknowledged
and recorded.

SECT. 5. Such certificate shall be acknowledged by the persons making the same, or proved by a subscribing witness thereto, before some officer authorized to take the acknowledgment of deeds, and recorded together with the certificate of such acknowledgment or proof, by the register of deeds of the county in which the church or place of worship shall be situated, in a book provided by him for that purpose, who shall be entitled to receive seventy-five cents for such record; and thereafter such trustees and their successors shall be a body corporate, by the name expressed in such certificate.

Fee of register
of deeds.

Trustees have
seal, and have
possession of
church property.

SECT. 6. Such trustees may have a common seal, and may alter the same at pleasure; and they may take into their possession and custody all the temporalities of such church, congregation, or society, whether the same shall consist of real or personal estate, and whether the same may have been

given, granted, or devised, directly or indirectly, to such church, congregation, or society, or to any other person or persons for their use.

SECT. 7. Such trustees may, also, in their corporate name, General powers of trustees. sue and be sued, in all courts and places, and they may recover and hold all the debts, demands, rights, and privileges, all churches, buildings, burying-places, and all the estate and appurtenances belonging to such church, congregation, or society, in whatsoever manner the same may have been acquired, or in whose hands soever the same may be held, as fully and amply as if the right and title thereto had been originally vested in the said trustees; and they may hold other real or personal estate, and demise, lease, and improve the same; but the whole of such estate, real and personal, shall not exceed the yearly value or income of three thousand dollars.

SECT. 8. The said trustees shall also have authority to May build, alter, and repair churches and houses. alter and repair their churches and meeting-houses, and under the direction of the society or congregation, to erect churches or meeting-houses, and dwelling-houses for their ministers, and other buildings for the use of their church, congregation, or society.

SECT. 9. They shall also have authority to Make rules, and orders, &c. make rules and orders for managing the temporal affairs of such church, congregation, or society, and to dispose of all moneys belonging thereto; and to order and regulate the renting of pews or slips in their churches and meeting-houses, and the perquisites for the breaking of the ground in the cemetery or churchyard, and in the said churches or meeting-houses for burying the dead.

SECT. 10. They may appoint a clerk and treasurer of their May appoint and remove clerk, treasurer, and collector. board, and a collector to collect and receive their rents and revenues, and may regulate the fees to be allowed to such clerk, treasurer, and collector, and may remove them and appoint others in their stead, at pleasure, and such clerk shall enter all rules and orders made by such trustees and payments ordered by them, in a book to be procured by them for that purpose.

SECT. 11. Any two of the trustees may, at any time, call Any two may call meeting, &c. a meeting of the trustees, and a majority of them being lawfully convened, shall be competent to do and perform all

matters and things which such trustees are authorized to do and perform.

Hold office three years, and be divided into classes.

SECT. 12. The said trustees shall hold their offices for three years ; and immediately after their first election, as hereinbefore provided, the said trustees shall be divided by lot into three classes, numbered one, two, and three ; and the seats of the first class shall be vacated at the end of the first year, of the second class at the end of the second year, and of the third class at the end of the third year, to the end that, as near as may be, one third part of the whole number of trustees may be annually chosen.

Notices of expiration and election to be given, how.

SECT. 13. It shall be the duty of the clerk of said trustees, at least one month before the expiration of the office of any of the said trustees, to notify the same in writing to the minister, or, in case of his death or absence, to the elders or church-wardens ; and, if there be no elders or church-wardens, then to the deacons or vestrymen of any such church, congregation, or society, specifying in such notice the names of the trustees whose office will expire, and the minister or other officer receiving such notice shall, in the manner aforesaid, notify the members of such church, congregation, or society, of such vacancies, and appoint the time and place for the election to supply the same.

Election held and conducted, how.

SECT. 14. Such elections shall be held at least six days before vacancies shall happen as aforesaid, and all subsequent elections shall be held and conducted in the same manner as hereinbefore provided for the first election ; and, in case a vacancy shall happen by the death of a trustee, his refusal to act or removal from the society, before his term of office expires, or otherwise, notice thereof shall be given as aforesaid ; and an election shall be held and another trustee chosen in his stead for the remainder of such term.

Qualifications of voters.

SECT. 15. No person belonging to any such church, congregation, or society, incorporated under the provisions of this act, shall be entitled to vote at any election after the first, until he shall have been an attendant on public worship in such church, congregation, or society, at least six months before such election, and shall have contributed to the support of such church, congregation, or society, according to the customs and usages thereof.

SECT. 16. The clerk of the trustees shall keep a register of

the names of all such persons as shall desire to become stated hearers in the said church, congregation, or society, and shall therein note the time when such request was made; and the said clerk shall attend all subsequent elections, in order to test the qualifications of such voters, in case they shall be questioned.

Clerk keep register of stated hearers.

Clerk attend elections.

SECT. 17. Nothing in this chapter contained shall be construed to give such trustees [power] to fix or ascertain the salary or compensation to be paid to any minister, but the same shall be ascertained and fixed by a majority of such society entitled to vote at the election of trustees: *Provided*, Nothing in this section shall be construed to apply to churches, societies, or denominations whose constitution, rules, or usages provide differently for fixing or ascertaining the amount of salary or compensation to be allowed to such minister.

Trustees cannot fix salary.

Proviso.

SECT. 18. It shall be lawful for the district [court] of the county in which any such religious corporation shall have been constituted, on the application of such corporation, if the court shall deem it proper, to make an order for the sale of any real estate belonging to such corporation, and to direct the moneys arising therefrom to such uses as the said corporation, with the approbation of said court, shall conceive to be for the interest of such corporation.

District court may make order of sale of church property, when, &c.

SECT. 19. At least thirty days' previous notice of such application to the district court shall be given, by publishing the same in some newspaper published in the county, if one be published therein, and if not, by posting up notices in three or more public places in such county.

Thirty days' notice of application for sale, necessary.

SECT. 20. In case of the dissolution of any corporation hereafter to be formed in pursuance of the provisions of this act, for any cause whatever, the same may be incorporated under the provisions of this act, at any time within six years after such dissolution; and thereupon, all the estate, real and personal, formerly belonging to the same, and not lawfully disposed of, shall vest in such corporation, as if there had been no such dissolution.

In case of dissolution, how reincorporated and when.

SECT. 21. All lands, tenements, and hereditaments that have been or may hereafter be lawfully conveyed by devise, grant, purchase, or otherwise, to any person or trustee in trust, for the use of any religious society organized, or which may be hereafter organized within this territory, either for a

Lands, &c., lawfully conveyed to such society, how held.

meeting-house, burying-ground, or for the residence of a preacher, shall descend with the improvements in perpetual succession to, and shall be held by, such trustee in trust for such society.

When trustees are appointed, certificate necessary.

SECT. 22. Whenever by the constitution, rules, and usage of any particular church or religious denomination, trustees are required to be appointed by any ministers, presiding elders, or other officer or officers of such church or denomination, it shall be the duty of such ministers, presiding elders, or other officer or officers to give to such trustees a certificate of their appointment, under the hand and seal of the person making the same, specifying the name by which such trustees and their successors shall thereafter be called and known, which certificate shall be acknowledged and proved, and recorded as hereinbefore directed; whereupon such trustees and their successors, appointed in the same manner, shall be a body corporate, by the name expressed in such certificate, with all the rights, powers, and privileges of other religious corporations constituted according to the provisions of this act.

When officers of church are made trustees.

SECT. 23. Whenever, by the constitution, rules, and usages of any particular church or denomination, the minister or ministers, elders and deacons, or other officers elected by any church or congregation, according to such constitution, rules, or usages are thereby constituted the trustees of such church or congregation, it shall be lawful for such minister or ministers, elders and deacons or other officers, to assemble together and execute, under their hands and seals, a certificate, stating therein the name by which they and their successors in office shall forever thereafter be called and known, which certificate shall be acknowledged or proved, as hereinbefore directed; whereupon such persons and their successors in office, shall be a body corporate by the name expressed in such certificate, with all the rights, powers, and privileges of other religious corporations, constituted according to the provisions of this act.

When church already organized, how it may avail itself of the privileges of this act.

SECT. 24. Whenever any church or religious society now organized, or which may hereafter be organized as a church or congregation, but not incorporated in pursuance of law, shall comply with the provisions of this act and thereby become a body corporate, according to the intent and meaning

of this act, all the estate, real and personal, which shall have been lawfully conveyed to the said church or religious society, or to the trustees or vestry thereof in trust for the use of such church or society, whether by devise, gift, grant, purchase, or otherwise, and not lawfully disposed of, shall thereupon vest in said corporation as fully and amply as if the said church had been legally incorporated from the date of its religious organization: *Provided, always*, That the name or title publicly assumed or borne by such church or society from the date of its organization as such, and none other, shall be the title by which it shall forever be known in law, and as a body politic and corporate.

Proviso.

SECT. 25. It shall be lawful for the male persons of full age, of any church or congregation in communion with the Protestant Episcopal church in the territory, who shall have belonged to such church or congregation for the last three months preceding such election, and who shall have been baptized in the Episcopal church, or shall have been received therein, either by the right of confirmation or by receiving the holy communion, or by purchasing or hiring a pew in said church, or by some joint act of the parties and rector, whereby they shall have attached themselves to the Protestant Episcopal church, and not already incorporated, at any time to meet for the purpose of incorporating themselves under this act, and by a majority of voices to elect two church-wardens, and not less than four nor more than eight vestrymen, and to determine on what day of the week, called Easter week, the said officers of church-wardens and vestrymen shall annually thereafter cease and their successors in office be chosen; of which first election notice shall be given in the time of morning service, on two Sundays previous thereto by the rector, or if there be none, by any other person belonging to such church or congregation, and that said rector, or if there be none, or he be necessarily absent, then one of the church-wardens or vestrymen, or any other person called to the chair, shall preside at such election, and together with two other persons shall make certificate under their hands and seals, of the church-wardens and vestrymen so elected, of the day of Easter week so fixed on for the annual election of their successors, and of the name or title by which such church or congregation shall be known in law; which certificate being

Rules applicable to Protestant Episcopal church.

Rules applica-
ble to Protestant
Episcopal
church.

duly acknowledged or proved by one or more of the subscribing witnesses, before one of the judges of the supreme court or one of the judges of the court of common pleas of the county where such church or place of worship of such congregation shall be situated, shall be recorded by the register of deeds of such county, in a book to be by him provided for such purpose, and that the church-wardens and vestrymen so elected, and their successors in office, of themselves, but if there be a rector, then together with the rector of such church or congregation shall form a vestry and be the trustees of such church or congregation; and such trustees and their successors shall thereupon, by virtue of this act, be a body corporate by the name and title expressed in such certificate, with all the rights, powers, and privileges of other religious corporations, constituted according to the provisions of this act; and the persons qualified as aforesaid shall, in every year thereafter, on the day in Easter week so to be fixed for that purpose, elect such church-wardens and vestrymen; and whenever any vacancy shall happen before the stated annual election by death or otherwise, the said trustees shall appoint a time for holding an election to supply such vacancy, of which notice shall be given in the time of divine service, at least ten days previous thereto; and such election, and also the stated annual elections, shall be holden immediately after the morning service, and at all such elections the rector, or if there be none or he be absent, one of the church-wardens or vestrymen shall preside and receive the votes of the electors and be the returning officer, and shall enter the proceedings in the book of the minutes of the vestry, and sign his name thereto, and offer the same to as many electors present as he shall think fit, to be by them also signed and certified; and the church-wardens and vestrymen to be chosen at any of the said elections, shall hold their offices until the expiration of the year for which they shall be chosen, and until others be chosen in their stead, and shall have power to call and induct a rector to such church or congregation as often as there shall be a vacancy therein: *Provided, however,* That no meeting or board of such trustees shall be held, unless at least three days' notice thereof shall be given in writing, under the hand of the rector or one of the church-wardens; and that no such board shall be competent to trans-

Proviso.

act any business, unless the rector, if there be one, and at least one of the church-wardens and a majority of the vestrymen be present; and such rector, if there be one, and if not, then the church-warden present, or if both the church-wardens be present, then the church-warden who shall be called to the chair by a majority of voices, shall preside at every such meeting or board, and have the casting vote.

SECT. 26. This act shall be in force from and after its passage, and approval by the governor. Take effect, when.

Approved May 13, 1862.

W. JAYNE, *Governor.*

REVENUE.

CHAPTER 69.

AN ACT IN RELATION TO REVENUE.

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

SECTION 1. That the board of county commissioners of each county in this territory shall annually, as hereinafter provided, levy the following taxes upon the assessed value of the taxable property in the territory. The governor and secretary of the territory are hereby authorized to fix the amount of territorial tax for each year, according to the provisions of this act: 1. For territorial purposes, the tax shall be three fourths of a mill on the dollar, when no rate is fixed by the governor and secretary of the territory; but in no case shall a levy for territorial purposes exceed one and one half mill on a dollar. 2. The [For] county revenue, including the support of the poor, not more than two mills on the dollar, and a poll-tax of one dollar. 3. For making and repairing roads and bridges, not more than one mill on the dollar. County commissioners levy, and governor and secretary fix tax.