

any other or greater fee or reward for such services but such as is or shall be allowed by the laws of this Territory.

Sec. 20. Prospective costs may be charged and taxed for filing decree and for one execution. Prospective costs charged—when.

Sec. 21. Every officer upon receiving any fees for any official duty or service shall, if required by the person paying the same, make out in writing, and deliver to such person a particular account of such fees, specifying for what they respectively accrued, for which he shall receive payment by the folio, and shall give the same receipted to the party asking the same. Officer shall make out list of fees when required.

Sec. 22. That all acts and parts of acts, so far as they conflict with this act are hereby repealed. Conflicting acts repealed.

Sec. 23. This act shall take effect from and after its passage and approval. When take effect

Approved, January 14, 1864.

GUARDIANS

CHAPTER XXI.

AN ACT PROVIDING FOR THE APPOINTMENT OF GUARDIANS, AND PRESCRIBING THEIR DUTIES.

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

Section 1. The father is the natural guardian of the persons of his minor children. If he dies or is incapable of acting, the mother becomes the guardian. Who is natural guardian.

Sec. 2. The natural and actual guardian of any minor child may, by will, appoint another guardian for such minor. If, without such will, both parents be dead or disqualified to act as guardian, the probate court may appoint one. Who may appoint guardian.

Probate court
must appoint
guardian—when

Sec. 3. Although the parents are living and of sound mind, yet if the minor has property not derived from either of them, a guardian must be appointed by the probate court to manage such property.

Father or moth-
er may be ap-
pointed.

Sec. 4. The father, or, in case of his death, absence or incapacity, the mother may be appointed the guardian to take charge of the property of his or her minor child, if deemed, by the court, a suitable person for that purpose.

Minor may se-
lect guardian—
when.

Sec. 5. If the minor be over the age of fourteen years and of sound intellect, he or she, may select his, or her, own guardian, subject to the approval of the court.

Guardians must
give bond and
take oath.

Sec. 6. Guardians appointed to take charge of the property of the minor must give bond, with surety, to be approved by the court, in a penalty double the value of the personal estate, and of the rents and profits of the real estate of the minor, conditioned for the faithful discharge of their duties as such guardians, according to law. They must also take an oath of the same tenor, as the condition of the bond.

Guardians must
make out inven-
tory.

Sec. 7. Within forty days after their appointment, they must make out an inventory of all the property of the minor, which shall be appraised in the same manner as the property of a deceased person. The inventory must be filed in the office of the judge of probate of the proper county.

Guardians have
same power as
parents.

Sec. 8. Guardians of the persons of minors have the same power and control over them that parents would have if living.

Duty of guar-
dians.

Sec. 9. Guardians of the property of minors must prosecute and defend for their wards. They must, also, in other respects manage their interests, under the direction of the probate court; they may thus lease their lands or loan their money during their minority, and may do all other acts which the court may deem for the benefit of the wards.

Concerning mi-
nor's property.

Sec. 10. When not in violation of the terms of a will by which a minor holds his, or her, real property, it may, under the direction of the probate court, be sold or mortgaged on the application of the guardian, either when such sale or mortgage is necessary for the minor's support or education, or when his, or her, interest will thereby be promoted by reason of the unpro-

ineffectiveness of the property, or of its being exposed to waste, or of any other peculiar circumstances.

Sec. 11. The petition for an order to dispose of or mortgage the property of the minor, must state the grounds of the application, must be verified by oath, and a copy thereof, with a notice of the time at which such application will be made to the court, must be served personally upon the minor, at least ten days prior to the time fixed for such application.

Form of petition to dispose of minor's property.

Sec. 12. The probate court, in its discretion, may direct a postponement of the matter, and may order such further publication, through the newspapers or otherwise, as it may deem expedient.

Court may direct postponement.

Sec. 13. The court may, also, direct a reference for the purpose of ascertaining the propriety of ordering the sale or mortgage as applied for.

Court may direct reference.

Sec. 14. Before any such sale or mortgage can be executed, the guardian must give security, to the satisfaction of the court, the penalty of which shall be at least double the value of the property to be sold, or of the money to be raised by the mortgage, conditioned that he will faithfully perform his duty in that respect and account for and apply all moneys received by him under the direction of the court.

Guardian to give security—when.

Sec. 15. When the application for the sale of property is resisted, the court may, in its discretion, award costs to the prevailing party, and may when satisfied that there was no reasonable grounds for making the application, direct the costs to be paid by the guardian from his own funds.

Court may award costs.

Sec. 16. Deeds may be made by the guardian in his own name, but they must be returned to the court, and the sale or mortgage be approved before the same are valid.

Deed.—how made, &c.

Sec. 17. The same rules that are proscribed in the sale of real property by executors and administrators shall be observed in the sales under the provisions of this act as far as applicable.

What rules shall apply.

Sec. 18. A failure to comply with any order of the court in relation to the guardianship, shall be deemed a breach of the condition of the guardian's bond, which may, accordingly, be put in suit by any one aggrieved thereby, for which purpose the court may appoint another guardian of the minor if needs-

In case of failure to comply with order of court—what penalty.

sary. The court may, also, commit him to jail until he complies with such order.

Guardians must
make returns
when.

Sec. 19. Guardians of the property of minors must account, on oath, annually, or oftener, if required by the court. It may, also, direct them to give new or supplemental security, or may remove them for good cause shown, which cause must be entered on the record.

Sec. 20. When a new guardian is appointed, the court may order the effects of the minor, which are in the hands of his predecessors, to be delivered up to such new guardian.

Relative to for-
eign guardians.

Sec. 21. The foreign guardian of any non-resident minor may be appointed the guardian of such minor by the probate court of the county wherein such minor has any property, for the purpose of selling or otherwise controlling that and all other property of such minor, within this territory.

How appointed.

Sec. 22. Such appointment may be made, upon his filing, in the office of the probate judge of the county wherein there is any such property, an authenticated copy of the order for his appointment. He shall thereupon qualify, like other guardians, except as in the next succeeding section is prescribed.

Duty of court.

Sec. 23. Upon the filing of an authenticated copy of the bond and the inventory rendered by the guardian in the foreign State or Territory, if the court is satisfied with the sufficiency of the amount of the security, it may dispense with the filing of an additional bond.

Compensation
for guardian.

Sec. 24. Guardians shall receive such compensation as the court may from time to time allow. The amount allowed and the service for which the allowance was made, must be entered upon the records of the court.

Court may ap-
point guardians
of half breeds.

Sec. 25. The probate court may, in like manner, as is provided for in other cases by this act, appoint guardians of the persons and guardians of the property of half-breed minors, or infants of mixed blood.

Same.

Sec. 26. Whenever it is made to appear to the satisfaction of the probate judge that a half-breed minor, or an infant of mixed blood, residing within said county, has real or personal property, or is in receipt of, or is entitled to, an annuity from the United States, or has script for an amount of land, it shall

be the duty of the probate court to appoint a suitable guardian of the property of said half-breed child.

Sec. 27. Guardians appointed under the provisions of sections twenty-five and twenty-six, shall have the same powers, and shall observe the same requirements as are provided for in other cases by this act. And all the business, in and out of court, appertaining to the guardianship, of the persons or property of half-breed minors, or infants of mixed blood, shall be conducted the same as is provided by this act in other cases, except that, it is hereby enacted that an Indian woman, or a half-breed woman, cannot be lawful guardian of the property of their children. Powers of guardians.

Sec. 28. This act shall take effect from and after its passage and approval. When take effect

Approved, January 6, 1864.

TERRITORIAL LIBRARY

CHAPTER XXII.

AN ACT IN RELATION TO THE TERRITORIAL LIBRARY.

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

Section. 1. That all the books, pamphlets, documents, maps, charts and other articles belonging to the library of the Territory of Dakota, be, and the same are hereby turned over to, and are placed under the charge of the librarian of the Historical Society of Dakota. Territorial library placed in charge of whom.

Sec. 2. That all acts and parts of acts, so far as they conflict with the provisions of this act, are hereby repealed. Conflicting acts repealed.

Sec. 3. This act shall take effect from and after its passage and approval. When take effect

Approved, January 14th, 1864.