

FEES.

CHAPTER 6.

AN ACT TO REGULATE THE FEES OF CERTAIN OFFICERS.

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

Section 1. The salaries and fees of the several officers hereinafter named [shall be] as follows: Salaries and fees of officers

CLERK OF THE SUPREME COURT.

Sec. 2. Docketing each cause, civil and criminal, to be charged in each case but once, seventy-five cents. Fees of clerk of supreme court

Issuing summons in error, writ of error, *certiorari*, writ of injunction or mandate, one dollar.

Dismissal, discontinuance or continuance, twenty-five cents.

Entering each cause on the bar and court calendar, fifteen cents.

Issuing and docketing execution or order of sale, one dollar.

Taking affidavits, twenty-five cents.

Filing motion, rule, affidavit or other paper, ten cents.

Issuing attachment, and filing motion therefor, seventy-five cents.

Indexing each cause, direct and reverse, each docket, ten cents.

Entering judgment, decree or order on the journal, twenty-five cents.

For each ten words after the first one hundred words, one cent.

Entering minute of judgment, decree or order, on the appearance docket, fifteen cents.

Fees of clerk of
supreme court

Making copy of process, pleadings, record or other paper, or any part thereof, for each ten words, one cent.

Entering satisfaction, twenty-five cents.

Certificate and seal, fifty cents.

Every search, where no other services are rendered to which any fee or fees are attached, fifteen cents.

CLERK OF THE DISTRICT COURT.

Fees of clerk of
district court

Sec. 3. Docketing each cause, seventy-five cents.

Issuing summons, order of arrest, order of attachment, order of replevin, citation, or any mesne process, and filing return, one dollar.

Entering voluntary appearance of defendant, twenty-five cents.

Taking bail bond, twenty-five cents.

Filing petition, pleading, indictment or any other paper, ten cents.

Issuing attachment and filing motion therefor, one dollar.

Entering return of any writ or order, other than of execution, order of sale or attachment, twenty cents.

Entering each cause on the bar or court calendar of each term of the court, fifteen cents.

Indexing each cause, direct and reverse, each docket, ten cents.

Drawing petit jurors and issuing venire therefor, fifty cents.

Attending to the striking of special jury and issuing venire, one dollar.

Impanneling jury and administering oath, twenty-five cents.

Certifying to the county commissioners at the end of each term, the names of grand and petit jurors, and their terms of service and mileage, to be paid by the county, one dollar.

Issuing subpoena and seal, twenty-five cents, each name therein after the first, five cents.

Swearing and entering appearance of each witness, fifteen cents.

Entering judgment on the journal, twenty-five cents.

For each ten words after the first hundred words, one cent.

Entering verdict on the journal, twenty-five cents.

Transcribing judgment or order on appearance docket, twenty cents. Fees of clerk of district court

Drawing and issuing venire for grand jury, and impanneling the same, to be paid by the county, one dollar and twenty-five cents.

Dismissal, discontinuance or continuance, twenty-five cents.

Taxing costs, each cause, thirty-three cents.

Making complete records, for each ten words, one cent.

Copy of process, pleadings, record or paper filed, or any part thereof for every ten words, one cent.

Certificate and seal, twenty-five cents.

Filing and entering petition for habeas corpus, twenty-five cents.

Issuing writ of habeas corpus, one dollar.

Issuing and docketing execution, order of sale, one dollar.

Entering return of execution, or order of sale or order of attachment, for each ten words, one cent.

Indexing execution or order of sale, direct and reverse, each docket, ten cents.

Taking acknowledgment of deed or other instrument, fifty cents.

Taking affidavit, except those required to pleading, forty-five cents.

Each certificate or seal not herein provided for, twenty-five cents.

Entering satisfaction of judgment, twenty-five cents.

Every search made by the clerk where no other service is rendered to which any fee or fees are attached, fifteen cents.

Entering mandate and proceedings of supreme court, twenty-five cents.

Entering transcript of judgment of justice of the peace, forty cents.

Entering and docketing appeal from judgment of justice of the peace, forty cents.

Suggesting death of party or diminution of record, fifteen cents.

Substituting party on record, fifteen cents.

Commission to examine witness, one dollar.

Entering confirmation of sale, twenty-five cents.

Recording declaration of intention to become a citizen of

Fees of clerk of
district court

the United States, and certified copy thereof under seal, seventy-five cents.

Recording final admission of alien to the right of citizenship, and certified copy thereof under seal, one dollar and fifty cents.

Filing and entering motion, rule or default, ten cents.

Taking recognizance or entering forfeiture of recognizance, twenty-five cents.

Arraignment of defendant, twenty-five cents.

Entering retraction of plea or *nolle prosequi*, twenty cents.

Issuing capias, warrants, or other process under seal in criminal cause, fifty cents.

Entering remittitur, fifteen cents.

The clerk of the district and supreme court shall keep a docket in which he shall enter the cost chargeable and taxable against each party in any suit pending in said courts; and he is hereby empowered at any time to make out a statement of such fees, specifying each item of the fees so charged and taxed, under the seal of said court, which fee bill, so made under the seal of said court, shall have the same force and effect as an execution; and the sheriff to whom said fee bill shall be issued, shall execute the same as an execution, and shall have same fees therefor; and the clerk shall have the same fees for issuing such bill that he is entitled to for the issuance of an execution; *Provided*, That the clerk shall not enter in such docket any fees of any officer claiming the same, unless such officer shall duly return an itemized bill of the same.

REGISTER IN CHANCERY.

Fees of register
in chancery

Sec. 4. Docketing each cause, seventy-five cents.

Taking affidavit, except those required to pleading, twenty-five cents.

Issuing subpoena in chancery, order of injunction, citation or any mesne process under seal, fifty cents.

Filing bill, pleading or other paper, ten cents.

Approving bail bond, twenty-five cents.

Entering each cause on the bar and court calendar, each term, ten cents.

Indexing each cause, direct and reverse, each docket, ten cents. Fees of register in chancery

Entering decree, fifty cents, and order on the journal, twenty-five cents.

And for each ten words after the first one hundred words, one cent.

Transcribing decree or order on appearance docket, ten cents.

Dismissal, discontinuance or continuance, twenty-five cents.

Taking costs, each cause, forty cents.

For making complete record, transcript or copy of process, pleadings, record or other paper filed, or any part thereof, for each ten words, one cent.

Certificate and seal, twenty-five cents.

Entering allowance of injunction, fifty cents.

Issuing execution or order of sale, seventy-five cents.

Entering return of execution or order of sale, for each ten words, one cent.

Entering satisfaction of decree, twenty-five cents.

Filing and entering notice of appeal, fifteen cents.

Filing or entering motion or rule, fifteen cents.

Every search, where no other service is rendered to which any fee or fees are attached, fifteen cents.

SHERIFFS.

Sec. 5. Serving *capias* with commitment or bail bond, and return, one dollar. Fees of sheriff

For each search on search warrant, one dollar.

Arresting under search warrant, each defendant, one dollar.

Serving summons, subpoena in chancery, order of attachment, order of replevin, writ of injunction, *scire facias*, citation, or other mesne process, and return thereof, sixty cents.

Each defendant besides the first, twenty-five cents.

Copy of summons, subpoena in chancery, order of attachment, twenty-five cents.

Copy of writ of injunction, or *scire facias*, each ten words, one cent.

Serving subpoena for witness, each person, twenty-five cents.

Fees of sheriff

Taking and filing replevin bond or other indemnification, to be furnished and approved by the sheriff, fifty cents.

Making copy of any process or bond or paper, other than herein provided for, for every ten words, one cent.

Traveling expenses, for each mile actually and necessarily traveled, five cents.

Levying writ of execution and return thereof, one dollar.

Levying writ of possession, with the aid of the county, three dollars and fifty cents.

Levying writ of possession, without the aid of the county, two dollars.

Summoning grand jury, including mileage, to be paid by the county, eight dollars.

Summoning petit jury, including mileage, to be paid by the county, six dollars.

Summoning special jury, for each person impaneled, thirty cents.

Calling jury for trial of cause, twenty-five cents.

Serving notice of motion, or other notice or order of court, fifty cents.

Executing writ of habeas corpus, and return, one dollar and twenty-five cents.

Serving writ of restitution, and return, one dollar and twenty-five cents.

Calling inquest to appraise lands and tenements levied on by execution, sixty cents.

Calling inquest to appraise goods and chattels taken by order of attachment or replevin, sixty cents.

Advertisement of sale in newspaper, in addition to the printing, sixty cents.

Advertising in writing for sale of real or personal property, one dollar.

Executing writ or order of partition, two dollars.

Making deed for lands sold on execution, or order of sale, in addition to the cost of revenue stamp, two dollars.

Committing prisoner to prison, or discharging therefrom, twenty-five cents.

Attending before judge or court, in criminal cases, one dollar.

Opening court and attending thereon, per day, to be paid Fees of sheriff by the county, two dollars.

Commission on all money received and disbursed by him on execution or order of sale, order of attachment, decree, or on sale of real or personal property, shall be, for each dollar not exceeding four hundred dollars, three cents.

For every dollar above four hundred dollars and not exceeding one thousand dollars, two cents.

For every dollar above one thousand dollars, one cent.

For boarding prisoner, per day, not exceeding seventy-five cents.

For executing death warrant, such fee as the county commissioner shall deem reasonable and just, to be paid by the county.

In all cases where personal property shall be taken by the sheriff in execution, or on an order of attachment, and applied in satisfaction of the debt without sale, he shall be allowed the same per centage on the appraised value of the same as in case of sale.

Sec. 6. The sheriffs of the several counties of this Territory, for performing the duties required by law to be performed by them in the probate or justice court, shall receive the same fees as are allowed for similar service in the district court, to be taxed against the proper party or parties by the probate judge or justice.

CORONER.

Sec. 7. For viewing a dead body, five dollars.

Coroner. Fees of

Summoning and qualifying an inquest, fifty cents.

Drawing and returning inquisition, for each ten words, one cent.

For physician making post mortem examination of dead body, not to exceed in [any] case, ten dollars.

To be paid out of any goods, chattels, lands and tenements of the slayer (in case of murder or manslaughter,) if he hath any, otherwise by the county, with mileage or distance actually traveled to and from the place of viewing the dead body.

For all other services rendered, the same fees as are allowed the sheriff, and mileage.

JUDGE OF PROBATE

Judge of probate
—Fees of

Sec. 8. Docketing each cause, twenty-five cents.

Entering appearance of parties, fifteen cents.

Taking affidavit, twenty-five cents.

Issuing summons or other writ under seal, fifty-cents.

Filing petition, answer or any other pleading or paper necessary in any other cause, except the accounts current and vouchers of executors, administrators or guardians, five cents.

Probate of will and entry thereof, two dollars.

Letters testamentary or of administration or guardianship, under seal, and recording the same, two dollars.

Taking and approving bond, twenty-five cents.

Recording bond, will, sale bill, settlement of executor, administrator or guardian, for every ten words, one cent.

For copy of bond, will, sale bill, inventory, settlement, pleading, decree, record, or other document or paper, for every ten words, one cent.

Filing an account and vouchers of executor, administrator, or guardian, for settlement, and entering the same on minutes of the court, fifty cents.

Examining a partial or final settlement of executor, administrator or guardian, when the vouchers do not exceed fifty, one dollar.

Every additional voucher, over fifty, two cents.

Issuing citation, fifty cents.

Giving notice of time of settlement, twenty-five cents.

Hearing and deciding applications in contested cases on petition to sell land, two dollars.

Entering judgment, fifty cents.

Issuing execution or order of sale, fifty cents.

Making appointment of, and issuing commission to commissioners or appraisers, fifty cents.

Filing and recording report of commissioners, or of the proceedings and judgment of the district court on appeal from the decision of commissioners, fifty cents.

For every additional ten words after the first hundred words, one cent.

Making and recording order or decree, for every ten words, one cent.

Recording report of commissioners to make partition, for the first hundred words, seventy-five cents. Fees of Probate Judge

For every ten words after the first hundred, one cent.

For making copy of same, for every ten words, one cent.

Certificate and seal, twenty-five cents.

Filing and entering motion, fifteen cents.

Issuing subpoena and seal, fifty cents.

Each name therein after the first, five cents.

Every search when made by probate judge where no service is rendered to which any fee or fees are attached, fifteen cents.

The price of printing notices required by law to be printed in some newspaper, shall be allowed in addition to the fees herein allowed.

Sec. 9. For any service performed by the probate judge in any matter within the jurisdiction of justices of the peace, he shall be allowed the same fees as are allowed by law to the justices of the peace for like services, and no more.

MASTER IN CHANCERY.

Sec. 10. For copying any paper or instrument of writing, taking testimony, for every ten words, one cent. Master in chancery. Fees of

Swearing each witness, ten cents.

Making report of facts or conclusions of law, or upon exceptions, for every ten words, one cent.

And such additional fee as the court shall allow, not exceeding in any one cause, the sum of ten dollars.

Certificate and seal, twenty-five cents.

Taking affidavit, twenty-five cents.

Advertisement of sale of property in newspaper, in addition to the price of printing, sixty cents.

For making sale, one dollar.

Report of sale, one dollar.

Making deed for land sold on decree or order of sale, in addition to price of revenue stamp, two dollars.

Commission on the amount of purchase money received and disbursed by him of all the property contained in each decree or order of sale, shall be, for each dollar not exceeding three hundred dollars, two cents.

Sheriff's Fees

For each dollar above three hundred and not exceeding one thousand dollars, one cent.

For every dollar above one thousand dollars, one half cent.

In all cases in the district or supreme court, when persons in whose favor the execution or order of sale is issued, shall bid in the property sold on execution or decree, the sheriff or master making such sale, shall receive five dollars as his per cent. on such sale, and no more.

JUSTICE OF THE PEACE.

Justice of the
peace. Fees of

Sec. 11. Docketing each cause, twenty-five cents.

Taking affidavit, twenty-five cents.

Filing petition, bill of particulars, or other paper necessary in a cause, ten cents.

Issuing summons, *capias*, *subpoena*, order of arrest, or *venire* for jury, fifty cents.

Issuing execution, order of sale, order of attachment, order of replevin, and entering return therein, fifty cents.

Issuing writ of restitution, and entering return therein, one dollar.

Administering oath or affirmation to witness, ten cents.

Entering judgment in any cause, fifty cents.

Taking acknowledgment of deed or other instrument, fifty cents.

Swearing jury, twenty-five cents.

Copy of appeal, *certiorari*, or copy of pleadings or other papers for any purpose, for each ten words, one cent.

Taking depositions, for each ten words, one cent.

Certificate and seal, twenty-five cents.

Issuing warrant or *mittimus*, fifty cents.

Taking information or complaint, fifty cents.

Discharge to jailor, twenty-five cents.

Dismissal, discontinuance or satisfaction, twenty-five cents.

Written notices to party or parties, ten cents.

Filing notice and opening judgment for re-hearing, thirty cents.

Each adjournment, fifty cents.

Performing marriage ceremony, three dollars.

Each day's attendance upon trial of a cause, after the first Justices Fees day, one dollar.

Taking and approving bail bond, twenty-five cents.

Entering voluntary appearance of defendant, twenty-five cents.

Issuing attachment, fifty cents.

Entering motion or rule, ten cents.

Rule of reference to arbitrators, fifty cents.

Entering award of arbitrators, twenty-five cents.

Commission on money collected on judgment without execution, shall be one per cent. on the amount.

CONSTABLES.

Sec. 12. Constables shall be allowed the same fees as are allowed to sheriffs for like services. Constables
—Fees of

REGISTER OF DEEDS.

Sec. 13. For recording deed, mortgage, or other instrument, and indexing for the first four hundred words, seventy-five cents. Register of deeds
—Fees of

For each additional folio, ten cents.

Copy of record, for each ten words, ten cents.

Certificate and seal, twenty-five cents.

Making certified abstract of title, for the first deed or transfer, one dollar.

And for each additional deed or transfer, ten cents.

Entering satisfaction of mortgage or lien, twenty-five cents.

Issuing marriage license and administering oath when necessary therein, one dollar and twenty-five cents.

COUNTY CLERK.

Sec. 14. Issuing certificate of election, twenty-five cents.

For performing the duties of clerk of the county commissioners, and attending to the business of the county, such salary per annum, to be paid by the county quarterly, as the commissioners of the county shall allow, not exceeding in any year the sum of four hundred dollars. County clerk
—Fees of

For each certificate and seal in other cases, twenty-five cents.

For recording each certificate of marriage, twenty-five cents.

JURORS.

Jurors. Fees of **Sec. 15.** For each day's attendance at any district court, as grand, petit or special juror, to be paid by the county, two dollars.

Traveling expenses for each mile actually traveled, the mileage to be circular and paid by the county, five cents.

COUNTY SURVEYORS.

**County surveyor
—Fees of** **Sec. 16.** Five dollars per day when actually employed and mileage.

For each lot laid out and platted in any city or town, twenty-five cents.

For each copy of plat and certificate, fifty cents.

Recording each survey, twenty-five cents.

For each mile actually and necessarily traveled in going to work, ten cents.

For establishing each corner, twenty-five cents.

For ascertaining the location of a city or town lot in an old survey, and measuring and marking the same, two dollars.

For surveying county roads, per day, four dollars.

Expenses of necessary assistance shall, in addition, be paid by the party or parties requiring the work to be done.

PRINTERS.

Printers. Fees of **Sec. 17.** For printing and publishing legal advertisement in newspapers, as follows :

Each square of one hundred words for the first insertion, one dollar and fifty cents.

Each subsequent insertion, for each square of one hundred words, seventy-five cents.

Each legal advertisement under one hundred words, shall be deemed a square, and after the first hundred, twenty-five words or more, under one hundred words, shall be deemed a square.

For publishing lands, each description, twenty cents.

For publishing delinquent town lots, each description, fifteen cents.

Sec. 18. Interpreters or translators may be allowed such compensation for their services as the court shall certify to be reasonable and just, to be taxed and collected as other costs, but the same shall not exceed two dollars per day.

Fees of
interpreters

NOTARIES PUBLIC.

Sec. 19. For each protest, one dollar and fifty cents.

Notaries public
—Fees of

For recording the same, fifty cents.

For taking affidavit and seal, twenty-five cents.

For administering oath or affirmation, ten cents.

For taking deposition, each ten words, one and a half cents.

For each certificate and seal, twenty-five cents.

For taking acknowledgment of deed or other instrument, fifty cents.

COUNTY TREASURER.

Sec. 20. Each county treasurer shall receive for his services the following fees :

County treasurer
—Fees of

On all money collected by him for each fiscal year, under three thousand dollars, four per cent.

For all sums over three thousand dollars and under five thousand dollars, two per cent.

On all sums over five thousand dollars, one per cent.

On all sums collected, per centage shall be allowed but once, and in computing the amount collected for the purpose of charging per centage, all sums, from whatever fund derived, shall be included together, except the school fund.

For going to the seat of government to settle with the territorial treasurer, and returning therefrom, a traveling fee of ten cents per mile, to be paid out of the territorial treasury.

For advertising and selling lands for delinquent tax, an additional fee of five per cent., to be collected only in case such lands are actually sold, and then *in case* of the person buying the same; but for all other cases and services the treasurer shall be paid in the same *pro rata* from the respective funds collected by him, whether the same be in money, territorial or county warrants.

On school moneys by him collected, he shall receive a commission of but one per cent.

County treasurer
—Fees of

And in all cases where persons outside of the Territory apply to the treasurer by letter to pay taxes, the treasurer is authorized to charge a fee of one dollar for each tax receipt by him sent to such person.

ASSESSOR.

Assessors
—Fees of

Sec. 21. Each assessor shall receive for his services the following fees, and no more :

For each and every day actually engaged, the sum of three dollars.

COUNTY COMMISSIONERS.

County commissioners
—Fees of

Sec. 22. County commissioners shall each be allowed for the time they shall be necessarily employed in the duties of their office, the sum of three dollars per day, and five cents per mile, to be paid out of the general county fund ; and it shall be their duty to furnish the necessary blank books, blanks and stationery for clerks of the district court, county clerks, treasurer and probate judge of their respective counties, to be paid out of the county treasury.

WITNESSES,

Witnesses
—Fees of

Sec. 23. For each days attendance before the district court in civil cases, one dollar and fifty cents and mileage.

In criminal cases, or before any other court, board or tribunal, one dollar and fifty cents per day, and mileage ;

Provided That in all criminal cases witnesses shall be paid out of the treasury of the proper county.

Jury fees, how
paid

Sec. 24. There shall be paid by the party against whom a verdict is rendered, in the district court, a jury fee of five dollars, to be taxed in the bill of costs ; and when collected to be paid into the county treasury ; and for each trial by the court, a fee of one dollar, to be taxed, collected and paid in a like manner, for the use of the county.

Same

Sec. 25. In each criminal case tried by a jury, upon a conviction of the defendant or defendants, there shall be taxed in the bill of costs, a fee of six dollars as a jury fee, and judgment therefor shall be rendered against such defendant or de-

endants, which sum, when collected, shall be paid into the county, for the use of the county.

Sec. 26. In all actions, motions and proceedings in the supreme, district, probate or justices courts, the costs of the parties shall be taxed and entered on record separately. Costs, how taxed

Sec. 27. The clerk of the supreme court and of each district court, the register in chancery, probate judge, sheriff, justice of the peace, constable, or register of deeds, may in all cases require the party for whom any service is to be rendered, to pay the fees in advance of the rendition of such service, or give security for the same, to be approved by the officer. Fees may be required in advance

Sec. 28. It shall be lawful for any person to refuse payment of fees to any officer who will not make out a bill of particulars, signed by him, if required, and also a receipt or discharge signed by him for fees paid. When fees in advance may be refused

Sec. 29. No sheriff, coroner or constable shall be entitled to receive on mesne or final process, any fees provided for in this chapter, unless he shall return upon the process upon which any charge shall be made, the particular items of such charge. Not entitled to fees, when

Sec. 30. If any officer whatever, whose fees are hereinbefore expressed and limited, shall take greater fees than are so hereinbefore limited and expressed, for any service to be done by him in his office, or if any such officer shall charge or demand, and take any of the fees hereinbefore ascertained and limited, where the business for which such fees are chargeable shall not be actually done and performed, such officer shall forfeit and pay to the party injured, fifty dollars, to be recovered as debts of the same amount are recoverable by law. Officer taking illegal fees

Sec. 31. All officers whose fees are by this chapter determined, are hereby required to make fair tables of their respective fees, and keep the same in their respective offices in some conspicuous place, for the inspection of all persons who shall have business in said offices; and if any such officer shall neglect to keep a table of fees of his office as aforesaid, such officer shall, for each day of such neglect so to keep a table of fees of his office, forfeit and pay the sum of five dollars, to be recovered by action at law, before any justice of the peace, for the use of the county in which the offense shall have been committed. Officers required to keep public fee table

Court to appoint
bailiffs

Sec. 32. It shall be the duty of the district court, at each term of court, to appoint a competent number of bailiffs to wait on the grand jury and court during the term, who shall be allowed for their services two dollars per day, to be paid by the county.

U. S. revenue
stamps charged
extra

Sec. 33. All officers whose fees are hereinbefore limited, and expenses are allowed, may charge and demand as hereinbefore allowed, the price of all the United States revenue stamps required to be used in the discharge of their official duties, and the same shall be taxed with costs as in other cases of fees.

Prosecuting
attorney—com-
pensation.

Sec. 34. The prosecuting attorney in each county shall receive such compensation for his attendance upon the district court, and for his services, as shall be fixed by the order of the judge allowing the same;

Provisio

Provided, That in no instances shall there be allowed a greater sum than two hundred dollars for each term of the court, whether a regular or special term. And for preparing and examining official bonds, each, one dollar.

Officer to take
oath

Sec. 35. Every officer, whose salary is in the nature of a per diem, shall, before drawing any money on account of such salary, subscribe an oath or affirmation in form following:

Form of

I, A. B., do solemnly swear [or affirm,] that I have been _____ days necessarily and diligently engaged in the duties of my office as [insert title of office.]

[Officer's name,]

Attest by _____,

Duty of dis-
bursing officer

Any disbursing officer of this Territory who shall pay any portion of the salary of any officer aforesaid before such oath or affirmation is subscribed, shall forfeit to this Territory the sum of fifty dollars, which forfeiture may be sued for by any tax-payer.

Acts repealed

Sec. 36. All acts and parts of acts in conflict with this act, are hereby repealed.

Take effect, when

Sec. 37. This act shall be in full force and effect, from and after its passage.

Approved, Jan. 14, 1869.