

COUNTY OFFICERS.

CHAPTER XXVII.

COUNTY OFFICERS.

AN ACT to provide for county officers and defining their duties.

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

Officers of or
ganized coun-
ties.

SECTION 1. That all organized counties shall have the following described officers, to-wit: Three county commissioners, one register of deeds, who shall be *ex-officio* county clerk, one sheriff, one assessor, one judge of probate, one county treasurer, one county surveyor, one coroner, one district attorney, one superintendent of public schools, four justices of the peace, and four constables, who shall be elected at the general election in the year 1876 and every two years thereafter, except county commissioners, one of whom shall be elected annually.

Qualifications
and number of
county com-
missioners.

SEC. 2. The county commissioners shall have the qualifications of electors and shall be elected by the qualified voters of the several counties respectively at the annual election. That there shall be a board of county commissioners consisting of three persons, in each organized [county in this territory, one of whom shall retire annually.]

Counties to
be divided into
commissioner
districts.

SEC 3. That each county shall be divided into three districts by the board of county commissioners, which districts may be numbered from one to three, and said districts shall not be changed oftener than once in three years by said board. In each newly organized county the board of commissioners, at their regular sessions in January, April or July as provided in section six, shall proceed to divide their respective counties into districts, as provided for by this act, and one commissioner shall be elected from one of said districts at each general election thereafter by the qualified voters of the whole

county: *Provided, however,* That it shall not be lawful to change said district lines without a full board of commissioners existing at the time said lines are changed.

SEC 4. That where counties now are divided into three districts, it will not be necessary to make a new division of districts under this act. * New division not necessary, when.

SEC. 5. That each person elected county commissioner, shall, before entering upon the duties of his office, take an oath before some officer qualified by law to administer oaths, that he will support the constitution of the United States, and the organic act of this territory, and that he will faithfully perform all the duties enjoined on him by law, which oath shall be certified to by the officer administering the same, under seal, and filed in the office of the register of deeds for said county for record, in a book to be kept for that purpose, and when so recorded shall be sufficient authority for such commissioner to act. Oath of county commissioner.

SEC. 6. That the county commissioners shall meet and hold sessions for the transaction of county business at the court houses in their respective counties, or at the usual place of holding court, on the first Monday in January, April, July and October, of each year, and may adjourn from time to time, and the county clerk shall have power to call special sessions when the interest of the county demands it, upon giving five days notice of the time and object of calling the commissioners together, by posting up notice in three public places in the county, or by publication in one newspaper in the county. Time of regular meetings.

SEC. 7. That when the county commissioners of the board are equally divided on any question, they shall defer a decision until the next meeting of the board, and then the matter shall be decided by a majority of the board. When county board equally divided.

SEC. 8. That copies of the proceedings of the board of county commissioners, duly certified and attested by the county clerk, under seal, shall be received as evidence in all courts of this territory. Copies of proceedings to be received as evidence.

SEC. 9. That any of said commissioners or the county clerk, shall have power and authority to administer oaths or affirmations in all cases, and said commissioners shall have the power to preserve order when sitting as a board, and may punish contempts by fine, not exceeding five dollars, or by im- Powers of commissioners and clerks.

prisonment in the county jail not exceeding twenty-four hours; they may enforce obedience to all orders made by them, by attachment or other compulsory process, and when fines are assessed by them, the same may be collected before any justice of the peace having jurisdiction, and shall be paid over as other fines, within ten days after they are collected.

Commissioners to keep distinct account with treasurer.

SEC. 10. That the said commissioners shall keep a distinct account with the treasurer of the county for each several term for which the treasurer may be elected, in a book to be provided for that purpose, commencing from the day on which the treasurer became qualified, and continuing until the same or another person is qualified as treasurer, in which account they shall charge the treasurer with all sums paid him, and for all sums for which the said treasurer is accountable to the county, and they shall credit him with all orders returned and canceled, with all moneys paid, and with all vouchers presented by him, and with all matters with which the treasurer is to be credited on account; and the said commissioners shall, in their settlement with the treasurer, keep the general, special and road tax separate, that any citizen of the county may see how the same is expended.

Commissioners to keep a book.

SEC. 11. That they shall keep a book in which all orders and decisions made by them shall be recorded, except those relating to roads and bridges, and all orders for the allowance of money from the county treasury, shall state on what account and to whom the allowance is made, dating the same and numbering them consecutively, as allowed, from the first day of January to the thirty-first day of December in each year.

Shall keep a road book.

SEC. 12. That they shall keep a book for the entry of all proceedings and adjudications relating to bridges and the establishment, change or discontinuance of roads.

Shall keep warrant book.

SEC. 13. That they shall keep a book for the entry of warrants on the county treasurer, showing number, date, amount and name of the drawee of each warrant drawn on the treasury, which may be known as the warrant book, and the warrants shall be numbered in relation to the order and decision allowing the amount for which the same is drawn.

Power to prosecute civil actions.

SEC. 14. That they shall have power to institute and prosecute civil actions in the name of the county, for and on behalf of the county.

SEC. 15. That said county commissioners shall have power to make all orders respecting property of the county, to sell the public grounds of the county, and to purchase other grounds in lieu thereof; and for the purpose of carrying out the provisions of this section, it shall be sufficient to convey all the interest of the county in such grounds, when an order is made for the sale and a deed is executed in the name of the county by the chairman of board of commissioners, reciting the order, and signed and acknowledged by him for, and on behalf of the county, before some officer authorized to take acknowledgment of deeds: *Provided, however,* That the question of the sale of such public grounds or lands shall be first submitted to a vote of the people of the county, as herein-after provided, and sanctioned by a majority vote thereof.

Power in relation to county property.

Second—That they shall have power to levy a tax not exceeding the amount now authorized by law, and to liquidate indebtedness.

Other powers

Third—To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county, or appropriated for its benefit.

Fourth—They shall have power to open, lay out, vacate and change highways in the manner now provided, or as may hereafter be provided by law; to establish election precincts in their county and appoint the judges of election in the manner now provided, or as may hereafter be provided by law, and to equalize the assessment roll of their county in the manner now provided, or as may hereafter be provided by law.

Fifth—To fill all vacancies until the next succeeding general election, in all county and precinct officers, except the office of county commissioner.

Sixth—To furnish the necessary blank books, blanks and stationery for clerks of the district court, county clerk, register of deeds, county treasurer, and probate judge of their respective counties, to be paid out of the county treasury.

Seventh—To do and perform such other duties and acts that county commissioners are now or may hereafter be required by law for them to do and perform.

SEC. 16. That said commissioners shall superintend the fiscal concerns of the county, and secure their management in the best manner; they shall keep an account of the receipts

Duty of commissioners in relation to finances.

and expenditures of the county and on the first Monday of July annually, they shall cause a full and accurate statement of the assessments, receipts and expenditures of the preceding year, to be made out in detail under separate heads, with an account of all debts payable to and by the county treasurer, and they shall have the same printed in at least one newspaper in their county, and if there be no paper in the county, the same shall be posted up at the usual place of holding their sessions, and at one public place in each precinct of the county.

Shall procure
map of county.

SEC. 17. That the said commissioners are authorized to procure for their county a copy of the field notes, as soon as practicable, of the original survey of their county by the United States, and cause a map of the county to be construed therewith, on a scale of not less than one inch to a mile, and laid off in congressional townships and sections, to be kept open in the office of the county clerk, and the field notes to be deposited in the same office.

Special elec-
tions to be held

SEC. 18. That the said commissioners shall have power to submit to the people of the county, at any regular or special election whether the county will aid or construct any road or bridge, or to submit to the people of the county any question involving an extraordinary outlay of money by the county, and said commissioners may aid any enterprise designed for the benefit of the county as aforesaid, whenever a majority of the people thereof shall be in favor of the proposition, as provided in this section.

When county
warrants are
depreciated.

SEC. 19. That when county warrants are at a depreciated value, the said commissioners may, in a like manner, submit the question whether a tax of a higher rate than that provided by law shall be levied; and in all cases when an additional tax is laid, in pursuance of a vote of the people of the county, or of constructing or ordaining to construct any road or bridge, or for aiding in any enterprise contemplated by the preceding section, such special tax shall be paid in money and in no other manner.

Mode of sub-
mitting ques-
tions to vote of
people.

SEC. 20. That the mode of submitting questions to the people contemplated by the last two sections, shall be the following: The whole question, including the sum desired to be raised, or the amount of the tax desired to be levied, or the rate per annum and the whole regulation, including the time

of its taking effect, or having operation, if it be of a nature to be set forth, and the penalty of its violation, if there be one, is to be published at least four weeks in some newspaper published in the county. If there be no such newspaper, the publication is to be made by being posted up in at least one of the most public places in each election precinct in the county, and in all cases the notices shall name the time when such question will be voted upon, and the form in which the question shall be taken, and a copy of the question submitted shall be posted up at each place of voting during the day of election.

SEC. 21. That when the question submitted involves the borrowing or expenditure of money, the proposition of the question must be accompanied by a provision to lay a tax for the payment thereof, in addition to the usual taxes under section fifteen of this chapter; and no vote adopting the question proposed shall be valid, unless it likewise adopt the amount of tax to be levied to meet the liability incurred.

Same.

SEC. 22. That the rate of tax levied in pursuance of the last four sections of this chapter shall in no case exceed three mills on the dollar of the county valuation in one year. When the object is to borrow money to aid in the erection of public buildings, the rate shall be such as to pay the debt in ten years; when the object is to construct or aid in constructing any road or bridge, the annual rate shall not exceed one mill on a dollar of the valuation; and any special tax or taxes levied in pursuance of this chapter becoming delinquent shall draw the same rate of interest as ordinary taxes levied in pursuance of the revenue laws of this territory.

Rate of tax for special purposes.

SEC. 23. That the said commissioners being satisfied that the above requirements have been substantially complied with, and that a majority of the votes cast in favor of the proposition submitted, shall cause the same to be entered at large upon the book containing the record of their proceedings, and they shall then have power to levy and collect the special tax, in the same manner that the other county taxes are collected. Propositions thus acted upon cannot be rescinded by the board of county commissioners.

Duty of commissioners when proposition is carried by vote.

SEC 24. That money raised by the county commissioners, in pursuance of the last six sections, is specially appropriated and constituted a fund, distinct from all others, in the

How funds applied.

hands of the county treasurer, until the obligations assumed are discharged.

Sessions of board to be public.

SEC 25. That the said commissioners shall hold their sessions with open doors, and transact all business in the most public manner, and where the county has no court house, or the court house shall be unfit or inconvenient, they may hold their sessions for the transaction of business at any other suitable place at the county seat. All matters pertaining to the interest of the county shall be heard by the board of commissioners in session only, but they may continue any business from any regular session to an intermediate day.

What books shall constitute record.

SEC. 26. That the books required to be kept by this chapter shall constitute the record of the board of county commissioners.

Power of commissioners.

SEC. 27. That said commissioners shall have authority and power to provide for the erection and repairing of court houses, jails, and other necessary buildings within and for the county, and to carry out the provisions of this section, they shall have power to make contracts on behalf of the county for the building or repairing of the same. They shall determine the amount of taxes to be levied for county purposes, according to the provisions of this chapter, and the revenue law of this territory.

Counties may sue, etc.

SEC. 28. That the counties in this territory may sue and be sued, plead and be impleaded, in any court in this territory: and in all cases where lands have been granted to any county for public purposes, and any part thereof has been sold and the purchase money, or any part thereof, shall be due and unpaid, all proceedings necessary to be had to recover possession of such lands, or to enforce the payment of the purchase money, shall be instituted in the name of the proper county.

Proceedings in case of judgment against county.

SEC. 29. That when any judgment is obtained against the county, it shall be a lien upon the property of the county, and the public property shall be liable therefor; but no execution shall issue therein until the board of county commissioners shall have had six months time to assess and collect a sufficient amount of revenue, under the provisions of this chapter, to pay off and discharge said judgments, in addition to the ordinary expenses of the county.

SEC. 30. That from all decisions of the board of commissioners, upon matters properly before them, there shall be allowed an appeal to the district court by any person aggrieved, upon filing a bond with sufficient penalty, and one or more sureties to be approved by the county clerk, conditioned that the appellant will prosecute his or her appeal without delay, and pay all costs that he or she may be adjudged to pay in the said district court; said bonds shall be executed to the county, and may be sued in the name of the county, upon breach of any condition therein.

Appeals from the decisions of commissioners.

SEC. 31. That said appeal shall be taken within twenty days after the decision of said board, by serving a written notice on one of the board of county commissioners, and the county clerk shall upon the filing of the bond, and the payment of his fees, allowed by this chapter, as hereinafter provided, make out a complete transcript of the proceedings of said board, relating to the matter of their decision thereon, and shall deliver the same to the clerk of the district court.

Appeal, when and how taken.

SEC. 32. That said appeal shall be filed by the first day of the district court next after such appeal, and said cause shall stand for trial at such term.

Appeal, when filed.

SEC. 33. That all appeals thus taken to the district court shall be docketed as other causes pending therein, and the same shall be heard and determined *de novo*.

Appeals to be docketed.

SEC. 34. That the district court may make a final judgment and cause the same to be executed, or may send the same back to the board, with an order how to proceed, and require said board of county commissioners to comply therewith by mandamus or attachment, as for contempt.

Power of district court.

SEC. 35. That all treasurers, sheriffs, clerks, constables and other officers, chargeable with money belonging to any county, shall render their accounts to, and settle with the county commissioners at the time required by law, and pay into the county treasury any balance which may be due the county, take duplicate receipts therefor, and deposit one of the same with the clerk of the county within five days thereafter.

All officers to settle with commissioner

SEC. 36. That if any person thus chargeable, shall neglect or refuse to render true accounts, or settle as aforesaid, the county commissioners shall adjust the accounts of such delinquent according to the best information they can obtain,

When suit may be brought

and ascertain the balance due the county, and order suit to be brought in the name of the county therefor.

When the board refuses commissions.

SEC. 37. That in case the board of commissioners shall refuse such delinquent any commission, and such delinquent shall forfeit and pay to the county a penalty of twenty per cent. on the amount of funds due the county.

Commissioners to keep seal

SEC. 38. That the board of county commissioners hereby established, shall procure and keep a seal with such emblems and devices as they may think proper, which shall be the seal of the county, and no other seal shall be used by the county clerk.

What shall be sufficient sealing.

SEC. 39. That the impression of the seal hereby required to be kept, by the stamp, shall be sufficient sealing in all cases where sealing is required.

When county orders shall draw interest.

SEC. 40. That all county orders heretofore drawn or that may hereafter be drawn by the proper authorities of any county, shall, after having been presented to the county treasurer of the respective counties, and by him endorsed "not paid for want of funds in the treasury" from said date shall draw interest at the rate of ten per cent. per annum.

Location of county seat in new counties.

SEC. 41. That whenever any county shall organize in this territory, the qualified voters thereof are hereby empowered to select the place of the county seat by a vote at the first election held in the county for the choice of county officers, for this purpose each voter may designate on his ballot the place of his choice for the county seat, and when the votes are canvassed the place having the majority of all votes polled shall be the county seat, and public notice of said location shall be given within thirty days by the tribunal transacting county business, by posting up notices in three several places in each precinct in the county.

Changing county seat after location.

SEC. 42. That whenever the inhabitants of any county are desirous of changing the place of their county seat, and upon petitions being presented to the tribunal transacting county business, signed by two-thirds of the qualified voters of the county, it shall be the duty of said tribunal, in the notices for the next general election, to notify said voters to designate upon their ballots at said election the place of their choice, and if upon canvassing the votes so given it shall appear that any one place has two-thirds of the votes polled, such place shall be the county seat, and notice of such change shall be

given as hereinbefore provided in the case of the location of county seats of new counties.

SEC. 43. That if no one place has a majority of all the votes polled, as provided for in sections 41 and 42, it shall be the duty of the tribunal transacting county business, within one month after said election, to order a special election and give ten days notice thereof, by posting up three notices in each precinct in the county, at which election, votes shall be taken by the ballot between the three highest places voted for at the first election, and if no choice is made at such election, notice of another election shall be given as above provided for, to decide between the two highest places voted for at the last election, and the place having the highest number of votes shall be the county seat.

Proceedings where no place has a majority of votes.

SEC. 44. That whenever any county seat shall be located upon the public lands, it shall be the duty of the tribunal transacting county business to enter or purchase a quarter section of land at the place so designated, at the expense of, and for the use of the county, within three months thereafter, if said land be subject to private entry; if not, such tribunal shall claim the same as a pre-emption under the laws of the United States, for the use of said county.

When county seats are located on public lands.

SEC. 45. That the aforesaid tribunal shall, within three months after the selection, cause the same to be surveyed in town lots, squares, streets and alleys, and platted and recorded in pursuance of law; and shall select the place for the county buildings thereon, reserving for that purpose so many of said lots as may be deemed necessary.

Surveying and platting county town.

SEC. 46. That the remainder of said lots shall be offered at public sale by the sheriff of said county to the highest bidder, at the times and places to be designated in the notices of such sales, which shall be posted at three public places in the county, and published in some newspaper, at least thirty days previous to such sales. The terms of sale shall be one-third cash, and the balance on time, as the county tribunals may deem best; and may dispose of lots at private sale upon terms as above provided for.

How the lots shall be disposed of

SEC. 47. That purchasers of the aforesaid lots shall receive a certificate of purchase from said sheriff, entitling the holder to a warranty deed from the county tribunal when payment in full shall be made for the same; any lots sold as above

Purchasers of lots to receive certificate

that shall not be paid for as provided in this chapter, or within one year thereafter, shall be forfeited to the county, and shall be again sold as hereinafter provided.

Proceeds of sales of lots, —how disposed of.

SEC. 48. That the proceeds of the sales of the aforesaid lots after deducting the expenses of the surveying, advertising, selling, and all other necessary expenses, shall be paid into the county treasury, and shall constitute a fund for the erection of public buildings for the use of the county seat, at the county seat, and shall be used for no other purpose whatever.

County buildings.

SEC. 49. That in any county which may collect a building fund by the provisions of this chapter, it shall be the duty of the tribunal transacting county business, within one year from the time such fund becomes available, to advertise, by publishing in a newspaper at least three months, for bids for building a court house, jail, and offices for register of deeds and county clerk, if the above specified fund, in their judgment, may be sufficient for that purpose, said advertisements for bids to contain plans and specifications for such buildings, and also the time allowed to complete the same. The lowest responsible bid shall in all cases be accepted, and the contracts] for such buildings shall be so conditioned that not more than one-half the payment for the same shall be made until the contract shall be completed to the satisfaction of the said tribunal.

Commissioners to elect chairman.

SEC. 50. That at the first meeting of the county commissioners in each and every year, they shall elect one of their number chairman, who shall act as chairman of the board of said commissioners during the year in which he is elected, or until his successor is elected; and in case of a vacancy, from any cause whatever, the board of county commissioners shall elect another chairman.

Duty of chairman.

SEC. 51. That it shall be the duty of the chairman of the board of county commissioners to preside at the meetings of said board, and all orders made by the board of county commissioners, and all warrants drawn on the county treasurer, shall be signed by the chairman and attested by the county clerk.

Compensation of commissioners.

SEC. 52. That the county commissioners shall receive as a compensation for their services, three dollars per day, and five cents a mile for traveling to and from the place of meeting.

SEC. 53. That when a vacancy occurs in the board of county

commissioners of any county in this territory, it shall be the duty of the chairman of said board of county commissioners, with the judge of probate and register of deeds, at their next regular or special meeting to appoint some suitable person to fill the vacancy in said board from the district where the vacancy occurs, and when such person so appointed shall qualify as provided by law, such vacancy shall be considered filled until the next regular election.

Proceedings
where vacancy
occurs.

SEC. 54. That the register of deeds shall keep a true record, (in proper books kept for that purpose) of all deeds, mortgages, bills of sale and chattel mortgages handed him for record, provided the person or persons handing him the same for record shall first pay him the fees provided by law for recording the same. He shall record at large and in full, word for word. Every register of deeds, before he enters upon the duties of his office, shall take and subscribe an oath before the clerk of the court of his county, or some other person duly empowered to administer oaths, to support the constitution of the United States and the organic act organizing the territory of Dakota, and faithfully and impartially to perform his duties as prescribed by law to the best of his ability, which said oath shall be indorsed on the back of his election certificate or appointment, recorded in a book kept in his office for that purpose, and filed in the office of the clerk of the court of the county, or if there is no such officer with clerk of the court of the county to which his county is attached for judicial purposes. He shall also give bonds with good and sufficient sureties, in the penal sum of one thousand dollars, to be approved by the board of county commissioners of his proper county, conditioned that he will faithfully and impartially discharge the duties of his office.

Duty of regis-
ter of deeds—
shall take oath
and give bonds

SEC. 55. The register of deeds in the several counties of this territory, are hereby authorized to appoint deputy registers, who shall be appointed in writing; and shall, before entering upon the duties of their office, take and subscribe an oath faithfully to perform the duties of their office, which oath shall be indorsed on the appointment, and recorded in the office of the register of deeds. The register of deeds shall be responsible for the acts of their deputies, and make their appointment at pleasure.

Deputy regis-
ters of deeds.

SEC. 56. That the register of deeds of each county shall per-

Duties of regis-
ters of deeds.

form all the duties required of him by law relative to the making out and delivering notice of general and special elections, making abstract and canvassing the votes cast at any general and special election, issuing certificates of election to members of the legislative assembly, county and precinct officers, and forwarding the abstract of votes cast at any general or special election to the secretary of the territory; and shall perform any other act or acts which now are or hereafter may be prescribed by law for register of deeds to do and perform.

When office
of register be-
comes vacant.

SEC. 57. That in case of the office of register of deeds becoming vacant by death, resignation, or otherwise, or in case the person elected to the office refuses, can not or will not qualify, the board of county commissioners shall forthwith appoint some suitable person to be register of deeds of the county until the next general election.

County clerk.

SEC. 58. That the register of deeds shall be *ex-officio* county clerk.

Duty of coun-
ty clerk.

SEC. 59. That the county clerk shall attend the session of the board of county commissioners, and keep a true and full record of all their proceedings in a book to be provided for that purpose.

Same.

SEC. 60. That it shall be the duty of the county clerk to do, perform and transact all county business without any extra or greater compensation than is allowed by law; said clerk shall keep all the books required to be kept by the county commissioners, shall file and preserve in his office all accounts, vouchers and other papers pertaining to the settlement of any and all accounts to which the county shall be a party, copies whereof, certified under the hand and seal of the clerk, shall be admitted as evidence in all courts in this territory.

Power of
county clerk. §

SEC. 61. That the county clerk shall have power and authority to take the acknowledgment of deeds and other instruments in writing.

County clerks
to keep records
in safe.

SEC. 62. That it shall be the duty of said county clerks to keep the records of their office in a fire proof safe, to be kept for the purpose, and which shall be purchased by the county commissioners, when in their judgment the same shall be advisable.

County clerk
liable for mis-
conduct.

SEC. 63. That the county clerk shall be liable on his official bond as register of deeds for any misconduct in his office.

SEC. 64. That all deputy register of deeds in each county shall be *ex-officio* deputy county clerks, and shall have the same power and authority as county clerks.

Deputy registers to be *ex-officio* county clerks.

SEC. 65. That county clerks shall do and perform any and all acts which now are, or may hereafter be prescribed by law for county clerks to do and perform.

Duty of county clerks.

SEC. 66. That it shall be the duty of the sheriff, before he enters upon the duties of his office, to take and subscribe an oath to support the constitution of the United States and the organic act organizing the territory of Dakota, and to faithfully and impartially discharge the duties of his office, which oath may be taken before any person authorized by law to administer oaths in his county, which oath shall be recorded in the office of register of deeds. He shall, also, give bond, previous to entering upon the duties of his office, to the board of county commissioners of his county, in the penal sum of four thousand dollars, with two or more securities, to be approved by the board of county commissioners, and the approval indorsed thereon, conditioned that the said sheriff shall well and faithfully, in all things perform and execute the duties of sheriff, according to law, during his continuance in office, without fraud, deceit, or oppression, which bond shall be filed in the office of register of deeds of his proper county.

Duty of sheriff—shall take oath and give bonds.

SEC. 67. That the sheriff may appoint deputies, who shall be empowered to perform all the duties devolving on the sheriff, the sheriff being responsible for the acts of his deputies, but no deputy shall be authorized to perform the duties of sheriff until he shall have taken an oath to support the constitution of the United States and the provisions of the act organizing the territory of Dakota, and to perform the duties of his office faithfully and impartially, to the best of his ability, which oath shall be subscribed on the back of his appointment, and filed and recorded in the office of register of deeds of the county for which he is appointed deputy sheriff.

Sheriff may appoint deputies.

SEC. 68. That it shall be the duty of the sheriff to keep and preserve peace in their respective counties, for which purpose they are empowered to call to their aid such persons or power of their respective counties as they may deem necessary. They shall also pursue and apprehend all felons; they shall execute all writs, warrants, and other process from the district court, or from a justice of the peace, which shall be directed

Duty of sheriff.

to them by legal authority. The sheriff shall attend at the district court, and the session of the board of county commissioners, when required by the latter to attend.

Duties of sheriff.

SEC. 69. That the sheriff shall serve or post up all notices he may receive from the register of deeds or the board of county commissioners; he shall give notice of special and general elections when notified by the register of deeds, and notify the board of county commissioners when any vacancy happens in the office of register of deeds and shall keep his office at the county seat, and shall generally do and perform all and singular the duties which are now or may be hereafter authorized by law to be performed by sheriff.

When office of sheriff becomes vacant.

SEC. 70. That in case of the office of sheriff becoming vacant by death, resignation, or otherwise, or in case the person elected to the office refuses, cannot or will not qualify, the board of county commissioners shall forthwith appoint some suitable person to be sheriff until the next general election.

Duty of assessor.

SEC. 71. That the assessor of each and every county in this territory shall perform all and singular the acts and duties which now are or which may be hereafter prescribed by law, for assessors to perform.

Shall take oath and give bonds.

SEC. 72. That before entering upon the duties of his office the assessor shall take and subscribe an oath, to be certified by the officer administering it, to support the constitution of the United States, and the organic act organizing the territory of Dakota, which oath shall be recorded in the office of register of deeds, and shall give bond in a penal sum to be fixed by the board of county commissioners of each county, which bond shall be approved by board of county commissioners, conditioned that he will faithfully and impartially discharge the duties of his office according to law, and filed and recorded in the office of the register of deeds.

Assessor may appoint deputy.

SEC. 73. That the assessor may appoint a deputy in each government township, or any number of deputies, who shall be empowered to perform all the duties devolving on the assessor, the assessor being responsible for the acts of each deputy, but no deputy shall be authorized to perform the duties of assessor, until he shall have taken an oath to support the constitution of the United States and the provisions of the act organizing the territory of Dakota, and to perform the duties of his office faithfully and impartially, to the best

of his ability, which oath shall be subscribed on the back of his appointment, and filed and recorded in the office of register of deeds of the proper county; the assessor may revoke the appointment of any of his deputies at pleasure.

SEC. 74. That in case of the office of assessor becoming vacant by death, resignation, or otherwise, or in case the person elected to the office refuses, cannot or will not qualify, the board of county commissioners shall forthwith appoint some suitable person to be *sheriff* [assessor] until the next general election.

When assessor's office become vacant.

SEC. 75. That the judge of probate shall, before he enters upon the duties of his office, execute a bond in such sum as the board of county commissioners or a majority of them may direct, with sufficient security, to be approved by the county commissioners of his county, and shall take an oath to support the constitution of the United States, and the act organizing the territory of Dakota, which oath shall be recorded in the office of register of deeds of the proper county.

Judge of probate shall take oath and give bonds.

SEC. 76. That the judge of probate of each and every county in this territory shall perform all and singular the acts and duties which now are or which may be hereafter prescribed by law for judges of probate to perform.

Duty of probate judges.

SEC. 77. That each judge of probate in this territory shall have full power and authority to administer oaths in all cases where oaths are required to be made and to take the acknowledgments of deeds and other instruments in writing and he shall be *ex-officio* a justice of the peace.

Powers of probate judges.

SEC. 78. That the county treasurer shall, before he enters upon the duties of his office, take and subscribe an oath to support the constitution of the United States and the organic act organizing the territory of Dakota, which oath shall be taken before any officer authorized by law to administer oaths in his county, which oath shall be recorded in the office of register of deeds. He shall, also, give bond, previous to entering upon the duties of his office, to the board of county commissioners of his county in such penal sum as said county commissioners or a majority may direct.

County treasurer shall take oath and give bonds.

SEC. 79. That the county commissioners of any one of the counties of this territory may require the county treasurer to give additional freehold sureties, whenever in the opinion of a majority of said commissioners, the existing security shall

When treasurer shall give additional security.

have become insufficient, and said commissioners are hereby authorized and empowered to demand and receive from said county treasurer an additional bond, as required by law, with good and sufficient freehold security, in such sum as said commissioners or a majority of them may direct, whenever, in their opinion, more money shall have passed, or is about to pass, into the hands of said treasurer than is or would be recovered by the penalty in the previous bond.

When treasurer shall fail to give bond.

SEC. 80. That if any county treasurer shall fail or refuse to give such additional security or bond, for and during the time of ten days from and after the day on which said commissioners shall have required said treasurer so to do, his office shall be considered vacant, and another treasurer shall be appointed, agreeably to the provisions of law.

When county commissioners may appoint treasurer or judge of probate.

SEC. 81. That in case of the office of judge of probate or county treasurer becoming vacant by death, resignation, or otherwise, or in case the person elected to the office refuses, cannot or will not qualify, the board of county commissioners shall forthwith appoint some suitable person to be judge of probate or county treasurer until the next general election.

Duty of county treasurer.

SEC. 82. That the county treasurer of each county in this territory shall perform all and singular, the acts and duties which now are or which may be hereafter prescribed by law, for county treasurers to perform.

County surveyor shall take oath and give bonds.

SEC. 83. That the county surveyor, previous to entering upon the duties of his office, shall take and subscribe an oath or affirmation, faithfully to discharge the duties of his office, and shall give bond to the county commissioners of the proper county, in the sum of five hundred dollars, conditioned for the faithful discharge of the duties of his office.

Duty of surveyor.

SEC. 84. That it shall be the duty of said surveyor, by himself or deputy, to execute any survey which may be required by any court, or upon application of any person or corporation.

Surveyor shall keep a record, etc.

SEC. 85. That the said surveyor shall keep a fair and correct record of all surveys made by him or his deputy, in a book to be kept by him for that purpose, which he shall transmit to his successor in office; he shall also number such surveys progressively, and shall preserve a copy of the field notes and calculations of each survey, indorsing thereon its proper number, a copy of which, and also a fair and accurate plat, to-

gether with a certificate of survey, shall be furnished by said surveyor to any person requiring the same.

SEC. 86. That in case of the office of county surveyor becoming vacant by death, resignation, or otherwise, or in case the person elected to the office refuses, cannot or will not qualify, the board of county commissioners shall forthwith appoint some suitable person to be county surveyor until the next general election.

When surveyor's office becomes vacant.

SEC. 87. That the coroner shall, before he enters upon the duties of his office, take and subscribe an oath to support the constitution of the United States, and the act organizing the territory of Dakota, and to faithfully discharge the duties of his office to the best of his ability; and he shall be required to give bond to the county commissioners in the penal sum of two thousand dollars, with good and sufficient sureties, to be approved by the county commissioners, conditioned for the faithful performance of his duty, which bond shall be filed with the register of deeds, and recorded in his office.

Coroner shall take oath and give bonds.

SEC. 88. That when there shall be no sheriff or deputy sheriff in any organized county, it shall be the duty of the coroner in each county to exercise all the powers and duties of sheriff of his county until a sheriff shall be elected and qualified; and when the sheriff, for any cause, shall be committed to the jail of his county, the coroner shall be keeper thereof during the time the sheriff shall remain a prisoner therein. The coroner shall receive the same fees as a sheriff, for like business. When the sheriff is sued, the coroner shall serve the papers on him, and his return on all papers served by him shall be entitled to the same credit as the sheriff's return.

When coroner may act as sheriff.

SEC. 89. That the coroner shall hold an inquest upon the dead bodies of such persons only as are supposed to have died by unlawful means. When he has notice of the dead body of a person supposed to have died by unlawful means, found or being in his county, he is required to issue his warrant to the sheriff or any constable of his county, requiring him to summon forthwith three electors, having the qualifications of jurors, of the county to appear before the coroner at a time and place named in the warrant.

When coroner shall hold inquest.

SEC. 90. That warrant may be in substance as follows:

Form of warrant.

TERRITORY OF DAKOTA, }
 _____ County. } ss

To the sheriff or any constable of said county:—In the name

of the territory of Dakota you are hereby required to summon forthwith three electors, having the qualifications of jurors, of your county, to appear before me at (name the place,) at (name the day an hour or say forthwith,) then and there to hold an inquest on the dead body of ————, there lying, and find by what means he died.

Witness my hand this ——— day of ———, 18—.

A. B.,

Coroner of ——— county.

Warrant, by whom executed. SEC. 91. The sheriff or constable shall execute the warrant and make return thereof at the time and place named.

Duty of coroner when juror fails to appear. SEC. 92. That if any juror fails to appear, the coroner shall cause the proper number to be summoned or returned from the bystanders immediately, and proceed to empanel them and administer the following oath in substance:

Form of oath to jury. “You do solemnly swear (or affirm) that you will diligently inquire, and true presentment make, when, how, and by what means the person whose body lies here dead came to his death, according to your knowledge and the evidence given you.”

Coroner may issue subpoenas. SEC. 93. The coroner may issue subpoenas within his county for witnesses, returnable forthwith, or at such time and place as he shall direct, and witnesses shall be allowed the same fees as in cases before a justice of the peace, and the coroner has the same authority to enforce attendance of witnesses, and to punish them and jurors for contempt in disobeying his process, as a justice of the peace has when his process issues in behalf of the territory.

Form of oath to witnesses. SEC. 94. An oath shall be administered to the witnesses in substance as follows:

“You do solemnly swear that the testimony which you shall give to this inquest concerning the death of the person here lying dead, shall be the truth, the whole truth, and nothing but the truth, so help you God.”

Testimony to be written. SEC. 95. The testimony shall be reduced to writing under the coroner's order, and be subscribed by the witnesses.

Form of verdict. SEC. 96. The jurors having inspected the body, heard the testimony and made all needful inquiries, shall return to the coroner their inquisition in writing, under their hands, in substance as follows, and stating the matters in the following form suggested, as far as found:

TERRITORY OF DAKOTA, }
 _____ County. } ss

An inquisition holden at _____, in _____ county, territory aforesaid, on the _____ day of _____, A. D. 18—, before coroner _____ coroner of the said county, upon the body of _____ (or a person unknown) there lying dead, by the jurors whose names are hereto subscribed. The said jurors upon their oaths do say (here state when, how, by what person, means, weapon, or accident, he came to his death, and whether feloniously.)

In testimony whereof the said jurors have hereunto set their hands, the day and year aforesaid,
 (which shall be attested by the coroner.)

SEC. 97. If the inquisition find that a crime has been committed on the deceased, and name the person whom the jury believe has committed it, the inquest shall not be made public until after the arrest directed in the next section. When inquest not to be made public.

SEC. 98. If the person charged be present, the coroner may order his arrest by an officer or any other person present, and shall then make a warrant requiring the officer or other person to take him before a justice of the peace. when coroner may order arrest.

SEC. 99. If the person charged be not present, and the coroner believes he can be taken, the coroner may issue a warrant to the sheriff and constables of the county, requiring them to arrest the person and take him before a justice of the peace. When coroner may issue warrants.

SEC. 100. The warrant of a coroner in the above case shall be of equal authority with that of a justice of the peace, and when the person charged is brought before the justice, such justice shall cause a complaint to be filed against him, and the same proceedings shall be had as in other cases under complaint, and he shall be dealt with as a person under a complaint in the usual form in criminal cases. Authority of coroner's warrant.

SEC. 101. The warrant of the coroner shall recite substantially the transactions before him, and the verdict of the jury of inquest leading to the arrest, and such warrant shall be sufficient foundation for the proceedings of the justice instead of a complaint. What warrant shall contain, etc.

SEC. 102. The coroner shall then return to the district court the inquisition, the written evidence, and a list of the witnesses who testified material matter. Return to district court.

SEC. 103. The coroner shall cause the body of a deceased person which he is called to view, to be delivered to his friends Deceased body to be disposed of—how.

if any there be, but if not, he shall cause him to be decently buried and the expense to be paid from any property found with his body, or, if there be none, from the county treasury, by certifying an account of the expenses, which, being presented to the board of county commissioners, shall be allowed by them if deemed reasonable, and paid as other claims on the county.

When justice to act as coroner.

SEC. 104. When there is no coroner, and in case of his absence or inability to act, any justice of the peace of the same county is authorized to perform the duties of coroner in relation to dead bodies, and in such case he may cause the person charged to be brought before himself by his warrant, and may proceed with him as a justice of the peace.

When physician to be summoned.

SEC. 105. In the above inquisition by a coroner, when he or the jury deem it requisite, he may summon one or more physicians or surgeons to make a scientific examination, and shall allow in such case a reasonable compensation instead of witness fees.

When office of coroner becomes vacant.

SEC. 106. That in case of the office of coroner becoming vacant by death, resignation, or otherwise, or in case the person elected to the office refuses, cannot or will not qualify, the board of county commissioners shall forthwith appoint some suitable person to be coroner until the next general election.

District attorney to take oath and give bonds.

SEC. 107. The district attorney shall, before he enters upon the duties of his office, take and subscribe an oath to support the constitution of the United States and the organic act organizing the territory of Dakota, and faithfully and impartially discharge his duty to the best of his ability. He shall also execute a bond with one or more sufficient sureties, to the board of county commissioners, to be approved by the chairman of said board in the sum of one thousand dollars, the condition of which bond shall be, that he will faithfully discharge the duties of the office of district attorney, and that he will pay over to the treasurer of his county all money which shall come into his hands by virtue of his office, which bond, together with the oath of office, shall be deposited in the office of the register of deeds of such county.

Duty of district attorneys.

SEC. 108. That it shall be the duty of the district attorneys of the several counties, to appear in the district courts of their respective counties, and prosecute or defend on behalf of the county or territory, all suits, indictments, applications or mo-

tions, civil or criminal, in which the territory or county is interested as a party.

SEC. 109. That no district attorney shall receive a fee or reward from or on behalf of any prosecution or other individual, for services in any prosecution or business to which it shall be his duty to attend.

District attorney to receive no fee or reward, when.

SEC. 110. That the district attorney shall receive for his services such compensation as the board of county commissioners of his county shall agree to pay him.

Compensation of district attorney.

SEC. 111. That in case of the office of district attorney becoming vacant by death, resignation, or otherwise, or in case the person elected to the office refuses, cannot or will not qualify, the board of county commissioners shall forthwith appoint some suitable person to be district attorney until the next general election.

When office of district attorney is vacant.

SEC. 112. That the county superintendent of public schools shall have charge of the common school interests of the county. He shall before he enters upon the discharge of the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United States and the act organizing the territory, and faithfully to discharge the duties of his office, which oath or affirmation shall be filed in the office of the county clerk. He shall also execute a bond with approved security payable to the board of county commissioners, for the use of common schools in said county, in the penal sum of five hundred dollars. Said bond must be approved by the county commissioners and filed in the office of the county clerk.

County superintendent of schools to take oath and give bond.

SEC. 113. That the county superintendent of public schools of each and every county in this territory shall perform all and singular the acts and duties which now are, or which may be hereafter prescribed by law, for county superintendents of public schools to perform.

Duty of such superintendent

SEC. 114. That in case of the office of county superintendent of public schools becoming vacant by death, resignation, or otherwise, or in case the person elected to the office cannot or will not qualify, the board of county commissioners shall forthwith appoint some suitable person to be county superintendent of public schools until the next general election.

When vacancy occurs in such office.

SEC. 115. That each justice of the peace shall, before he enters on the duties of his office, take and subscribe an oath to

Justice of the peace to take oath and give bonds.

support the constitution of the United States and the organic act organizing the territory of Dakota, and faithfully and impartially discharge the duties of his office to the best of his ability. He shall also execute a bond with two freehold sureties, to the board of county commissioners, to be approved by the register of deeds, in the sum of five hundred dollars, the conditions of which bond shall be, that he will faithfully discharge the duties of the office of justice of the peace, and that he will pay over to the treasurer of his county, all moneys which shall come into his hands by virtue of his office, and that he will upon the expiration of his term of office, deposit with his successor his official docket, as well as those of his predecessor; that he will also turn over [to] his successor all official books and papers belonging to his office, which bond, together with the oath of office, shall be deposited in the office of the register of deeds of such county.

Duty of justice of the peace.

SEC. 116. That each justice of the peace of each county in this territory, shall perform all and singular the acts and duties, which now are or which may be hereafter prescribed by law, for justices of the peace to perform.

When vacancy occurs.

SEC. 117. That in case of the office of justice of the peace becoming vacant by death, resignation, or otherwise, or in case the person elected to the office refuses, cannot or will not qualify, the board of county commissioners shall forthwith appoint some suitable person to be justice of the peace until the next general election.

Constable to take oath and give bonds.

SEC. 118. That each constable shall, before he enters on the duties of his office, take and subscribe an oath to support the constitution of the United States and the organic act organizing the territory of Dakota, and faithfully and impartially discharge the duties of his office to the best of his ability. He shall also execute a bond with two freehold sureties, to the board of county commissioners, to be approved by the register of deeds, in the sum of five hundred dollars, the conditions of which bond shall be, that he will faithfully discharge the duties of the office of constable, in all things, according to law, during his continuance in said office, which bond, together with the oath of office, shall be deposited in the office of register of deeds of such county.

Duty of constable.

SEC. 119. That each constable of each county in this territory shall perform all and singular the acts and duties, which

now are or which may be hereafter prescribed by law, for constables to perform.

SEC. 120. That in case the office of constable becoming vacant by death, resignation, or otherwise, or in case the person elected to the office refuses, cannot or will not qualify, the board of county commissioners shall forthwith appoint some suitable person to be constable until the next general election.

When vacancy occurs in office of constable.

This act not to apply to Union county.

SEC. 121. That the provisions of this act shall not apply to Union county, in this territory, so far as the same relates to the office of county commissioner, assessor, justice of the peace and constables: *Provided, however,* That this section only relates to the time when such officers are elected and the number of officers as are mentioned in this section.

SEC. 122. That all the officers provided for in this chapter shall be elected at the general election in each even numbered year, except county commissioner; and when any officer provided for in this chapter is elected in an odd numbered year, except county commissioner, it shall only be to fill a vacancy until the person elected to fill the office at the election in an even numbered year, is by law entitled to perform the duties of such office.

When these officers shall be elected.

SEC. 123. That this act shall take effect and be in force from and after its passage and approval.

When to take effect.

Approved, January 15, 1875.

CHAPTER XXVIII.

WHEN COUNTY OR PRECINCT OFFICERS SHALL ENTER UPON THEIR DUTIES.

AN ACT to prescribe the time of county officers to enter upon their duties.

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

SECTION 1. The regular term of office for all county or precinct officers, when elected for a full term, shall commence on the first Monday of January next succeeding their election. But if the office to which he was elected be vacant at the time

When term of certain officers commences.

of election, even if he was not elected to fill a vacancy, he shall forthwith qualify as prescribed by law, and enter upon the duties of his office.

Certain act
repealed.

SEC. 2. Section 43, of chapter 17 of the general laws of 1870-1, be and are hereby repealed.

When to take
effect.

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

Approved, January 12, 1875.

COUNTY BOUNDARIES.

CHAPTER XXIX.

COUNTIES IN WESTERN DAKOTA.

AN ACT to define the boundaries and name certain counties in the Territory of Dakota.

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

Defining bound-
aries of Lu-
genbeel county

SECTION 1. That the county of Lugenbeel shall be bounded and described as follows: Commencing at the point where the one hundred and first meridian of west longitude intersects the boundary line dividing the territory of Dakota and state of Nebraska, and running thence north along said one hundred and first meridian to its intersection with the channel of White river; thence westerly along the channel of White river to the mouth of Corn creek, a tributary thereof; thence southeasterly along the channel of Corn creek to its intersection with the one hundred and second meridian of west longitude; thence south along said one hundred and second meridian to its intersection with the boundary line dividing the territory of Dakota and state of Nebraska; thence east along said boundary line to the place of beginning.

Defining bound-
aries of Shan-
non county.

SEC. 2. That the county of Shannon shall be bounded and described as follows: Commencing at the southwest corner of Lugenbeel county on the dividing line between the territory of Dakota and state of Nebraska; thence north along the