

and upon the persons or officers mentioned in this section, and none other, except in cases where service of papers can be made upon an attorney after appearance, as provided by the code of civil procedure.”

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

Approved, February 21, 1881.

Costs in Criminal Proceedings.

CHAPTER 38.

AN ACT to Provide for the Taxation and Collection of Costs in certain Criminal Proceedings.

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

§ 1. COURT SHALL TAX COSTS.] In all cases of security to keep the peace under chapter three of the Code of Criminal Procedure, the court in addition to the orders mentioned in said chapter shall tax the costs against the complainant or defendant, or both, as justice may require, and enter judgment therefor, which may be enforced as judgments for costs in criminal cases, and execution may issue therefor.

§ 2. WHEN COURT SHALL TAX COSTS AGAINST COMPLAINANT.] If the defendant on a preliminary examination for a public offense be discharged as provided in section one hundred and forty-seven of the Code of Criminal Procedure; and if the magistrate find that the prosecution was malicious or without probable cause, he shall enter such judgment on his docket and tax the costs against the complaining witness, which shall be enforced as judgments for costs in criminal cases, and execution may issue therefor.

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

Approved, February 14, 1881.