

## Penitentiary.

### CHAPTER 104.

#### LOCATION AND GOVERNMENT OF TERRITORIAL PENITENTIARY.

AN ACT to Locate and Provide for the Building and Government of a Territorial Penitentiary.

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

§ 1. DIRECTORS TO PURCHASE SITE.] That the penitentiary of the Territory of Dakota shall be located on a tract of land not less than eighty acres in extent, to be selected by the directors hereinafter mentioned within the corporate limits of the village of Sioux Falls, in Minnehaha county, D. T.; and if a suitable tract of land cannot be obtained within the corporate limits of said village, then the said penitentiary shall be located on such tract of land as said directors shall select, within a radius of one mile of the corporate limits of said village. The said directors after having selected a suitable spot or tract of land as herein provided shall purchase the same for the Territory of Dakota, to be used for the purpose of a territorial penitentiary, and they shall certify to the auditor of said Territory the price agreed to be paid for said land, not exceeding the sum of five hundred dollars, and he shall draw a warrant on the treasurer of said Territory for the payment of the sum so agreed upon.

§ 2. APPOINTMENT OF DIRECTORS.] That said penitentiary shall be erected and constructed under the direction and government of three directors, who shall be appointed by the governor of the Territory, with the advice and consent of the council; said directors to hold their office for the term of two years, or until their successors are appointed and qualified, unless sooner removed by the governor upon specific charges, and in case a vacancy shall occur in the position of directors, such vacancy shall be filled by appointment by the governor of the Territory, which person so appointed shall hold his position until the end of the next legislature thereafter, unless a new appointment and confirmation shall sooner be made.

§ 3. DIRECTORS TO MAKE CONTRACT FOR BUILDING.] That such directors shall immediately proceed to contract for the erection of a suitable building for a penitentiary which shall accommodate from one hundred and twenty-five to one hundred and fifty persons, at a cost for land and buildings and fixtures complete not exceeding fifty thousand dollars, upon such lands within the aforesaid limits as they may select therefor, and for that purpose shall advertise for plans and specifications for a suitable building for a penitentiary, and said plans may or may not be accompanied with the price for which the proprietor will perform the work and build said building. From the plans so furnished, if the said directors shall deem it best, or from any other plans furnished, they shall select a plan for a penitentiary building. After said plan shall be selected the same shall be placed on file in the office of the treasurer of the Territory and be open for inspection for four weeks, and during said time bids shall be received from persons desiring to erect said building as per plans selected by said directors, and at the expiration of said time said directors shall, in a public manner, open said bids and award the contract to the lowest responsible bidder: *Provided, however,* That they shall reserve the right to reject any and all bids. and again advertise for proposals, or erect said building under their own direction and management, if they shall deem best.

§ 4. WALLS AND CELLS.] That the walls of said building containing the cells and of the prison yard of said penitentiary shall be constructed of good substantial stone masonry, and the cells shall be lined with or made of suitable iron, if thought necessary by the directors; and they shall be of suitable size, and the material used shall be examined by said directors, and they shall reject all material which they may deem unsuitable.

§ 5. WHEN TO BE COMPLETED.] The contract shall stipulate that the walls shall be constructed of stone of suitable size and fine texture, and shall be laid in good cement, and that all other material shall be of good quality, and that all the stone or mason work shall be completed and the building covered in within six months from the letting of the contract,

and the whole work completed within one year from the date of letting of said contract.

§ 6. PAYMENTS.] The directors as the work progresses on application of the contractor shall certify to the auditor of the Territory the value of the work done on the building at the time, and on such certified statement the auditor shall issue a penitentiary warrant on the treasurer of the Territory for a sum not exceeding eighty per cent. of the value of the work so certified to have been done, which warrants shall be paid out of the penitentiary fund.

§ 7. REPORT OF DIRECTORS AND BOND.] The directors shall make a full and complete report to the governor, to be by him communicated to the legislature at each session of all their doings, specifying the amount paid to each person, for what service or material the same was paid, and the said directors shall before entering upon the duties of their office, give a bond to the Territory of Dakota in the sum of ten thousand dollars for the faithful discharge of all the duties of their office, to be approved by the territorial treasurer and put on file in his office.

§ 8. COMPENSATION OF DIRECTORS.] The said directors shall receive five dollars per day for every day they may be actually employed about the erection of said building: *Provided*, That but one of said directors shall be paid for attendance during the progress of the work, except when meetings are held for conference, and traveling expenses not to exceed ten cents per mile for each mile actually and necessarily traveled in discharge of their duties, the said sum to be paid out of the territorial treasury on the warrant of the auditor.

§ 9. PURPOSE OF PENITENTIARY.] The penitentiary when constructed as herein provided shall be the general penitentiary and prison of the Territory of Dakota for the punishment and reformation of offenders, in which shall be confined and employed at hard labor and governed in the manner hereinafter directed, all offenders who have been committed and sentenced according to law by any court of the Territory of Dakota, or any district court for an offense against the United States held in the Territory of Dakota, to the punishment of solitary imprisonment or at hard labor therein.

§ 10. COURTS OF MINNEHABA COUNTY TO HAVE JURISDICTION.] For the purpose of all judicial proceedings the prison and precincts thereof shall be deemed to be within and a part of the county of Minnehaha, and the courts of said county shall have jurisdiction of all the crimes and offenses committed within the same.

§ 11. WARDEN TO SERVE PROCESS.] All process to be served within the precincts of the prison, either upon convicts or upon persons or officers employed within the precincts of the prison except the warden, shall be served and returned by the warden, and all officers and employes of the prison shall be exempt from serving upon juries in any court, and from highway poll tax.

§ 12. OFFICERS OF PRISON.] The officers of the prison shall consist of three directors as herein provided—one warden, one gate keeper, one turnkey and such guards, overseers and laborers as may be necessary.

§ 13. WARDEN, APPOINTMENT OF.] The warden shall be appointed by the directors to hold his office for two years unless sooner removed by the directors, and said directors are hereby authorized to remove such warden at their discretion.

§ 14. OTHER OFFICERS, APPOINTMENT OF.] All other officers and employes shall be appointed by the warden, to be approved by the directors, and shall hold their office during the pleasure of the warden.

§ 15. WARDEN'S SALARY.] The warden shall receive a salary to be fixed by the directors, not to exceed twenty hundred dollars per annum, and all other officers and employes such amounts as the directors may from time to time determine and fix upon.

§ 16. DIRECTORS TO VISIT PRISON.] The directors or some one of them shall visit the prison at least once in each month and oftener if they think necessary, for the purpose of inspecting the books and all the concerns of the prison, and ascertaining whether the officers are competent and faithful, and the convicts properly governed and employed, with power to direct any alteration in the business there carried on, which such directors may consider necessary.

§ 17. BOOKS TO BE PUBLIC RECORDS.] All books and docu-

ments relating to the concerns of the prison shall at all times be open to the examination of the directors and the public.

§ 18. DIRECTORS TO MAKE DETAILED REPORT.] The directors shall on or before the 15th day of December of each year make a detailed report to the governor for the year ending on the last day of the preceding month, stating therein the names of the officers of the prison, with their several salaries, the number of convicts, the amount of manufacture and the cost of each addition to and change in the prison building, together with a full statement of all the concerns of the prison.

THE WARDEN.

§ 19. WARDEN'S RESPONSIBILITY AND DUTY.] The warden shall, under the direction of the directors, have the charge and custody of the prison, with all lands, buildings, furniture, tools, implements, stock and provisions, and every other species of property pertaining thereto or within the precincts thereof, and shall superintend the police of the prison and discipline of the convicts. He shall be treasurer of the prison, and he shall render to the directors, on the first day of each month, a full and accurate statement of all moneys received by him, and all sums of money expended by him during the preceding month, showing on what account received and expended, and shall accompany said report with proper vouchers for all such expenditures, which report shall be verified by the oath of the warden, and shall receive and pay out all moneys granted by the legislature for the support of the prison, and such as may accrue from the business of manufacturing under contract or otherwise, convict labor, or rentage or sale of any personal property. The warden shall keep an account of all moneys received for gate fees for the admission of visitors to the prison, the amount of which for each year shall be embraced in his annual report and shall constitute a part of the prison revenues.

§ 20. SAME.] The warden shall be his own clerk and shall keep a correct record of all the transactions of his office and a correct account of all his doings.

§ 21. WARDEN TO GIVE BOND AND MAKE OATH.] Before the warden enters upon the duties of his office, he shall give a bond to the Territory of Dakota in the sum of fifteen thousand dollars, with two or more sureties to be approved by

the directors, conditioned that he will faithfully account for all moneys which shall come into his hands as prison treasurer, and perform all duties incumbent upon him as warden of the prison; he shall also before entering upon the duties of his office take and subscribe the constitutional oath of office, and such bond, with the approval of the directors indorsed thereon and the oath aforesaid, shall be filed in the office of the territorial treasurer.

§ 22. NEW BOND OF WARDEN.] Whenever the directors shall deem it necessary they may require the warden to file new bonds with satisfactory security in a larger sum than that specified in the preceding section, subject to their approval.

§ 23. RULES AND REGULATIONS.] The warden shall make such rules and regulations, not inconsistent with the laws of this Territory, for the government of the officers and convicts of the prison as he may deem necessary and proper, subject to the approval of the directors.

§ 24. CERTAIN PERSONS TO HAVE NO INTEREST IN CONTRACT.] The warden shall reside within the prison grounds and neither the warden nor any prison officer appointed by him or holding any office in the prison, including the directors, shall directly or indirectly have any interest or concern pecuniarily in any contract, either verbal or written, which may be entered into by said warden on the part of the Territory, for any purpose whatever connected with the business of the prison.

§ 25. WARDEN'S REPORT.] The warden shall on the thirtieth day of November in each year, make an annual detailed report to the directors, verified on oath, which shall contain a full and accurate statement of all concerns of the prison for the year ending on that day; also a list of convicts who have been received, discharged, pardoned or who have died during the year, including the prisoners sentenced by the United States courts, and an estimate of expenses for the ensuing year, which report the directors shall submit to the governor with their own, and by him be submitted to the legislature.

§ 26. PURCHASING SUPPLIES, CONTRACTS, ETC.] All contracts made on the part of the Territory by the warden, on account of the prison, shall be in writing and approved by the directors before taking effect, unless when the wants or necessities of the prison shall compel the warden to purchase supplies

of any kind immediately, in which case he may purchase the same upon verbal agreement. All contracts lawfully made by him shall be deemed the contracts of the Territory. The prison property of every kind in his charge is the property of the Territory, and all funds of the prison received by him shall at all times be kept separate from any other funds. The warden shall have power to make all purchases for the prison on such conditions and in such manner as in his opinion will best promote the interests of the Territory.

§ 27. **CONTRACTS FOR SUPPLIES—HOW LET.]** Whenever the warden shall determine to contract for the furnishing of the principal articles purchased for the use of the prison, such as food, fuel, lumber, stone, iron or steel, the same shall be contracted for by the year, when such contracts can be advantageously made. The warden shall give previous notice in at least two newspapers printed in the Territory of Dakota, of the articles wanted, the quality and quantity thereof, as near as the same can be ascertained, the time and manner of delivery and the period during which such articles shall be received. Such notice shall be published at least three successive weeks.

§ 28. **LOWEST AND BEST BIDDER TO RECEIVE CONTRACT.]** All such proposals shall be in writing and sealed up, and upon the day appointed in the notice in the foregoing section, they shall be opened by the warden, who shall cause all offers made in such proposals to be entered in a book and compared. The person offering the best terms, together with satisfactory security for the performance which shall be required by the warden in said notice, shall be entitled to the contract, unless it shall appear to the warden that no one of the offers is as low as the fair market price. In that case no offer shall be accepted, but the warden may if he thinks necessary advertise again and proceed as before provided for.

§ 29. **BONDS OF CONTRACTOR.]** All persons contracting under the provisions of the preceding sections shall give bonds to the Territory in a reasonable sum with satisfactory security for the faithful performance of their contract. All bills contracted by the warden for purchases on account of the prison shall be approved by a majority of the directors before payment.

§ 30. INVOICES TO BE COMPARED.] The warden shall take bills of quantity and price of the supplies furnished, in all cases where the same is practicable, at the time of their delivery, and the warden or such other officer as the warden shall direct shall compare the bill with the articles delivered, and if the same are found correct he shall make a corresponding entry on the account books of the prison and file the bill as a voucher of the fact of such delivery. If any bill so rendered for supplies shall be discovered to be incorrect on comparing it with the articles delivered, the warden shall immediately give notice to the person furnishing such supplies.

§ 31. DELIVERING PRISONERS—COMPENSATION OF SHERIFF.] The sheriff of each county shall convey to the territorial prison all persons convicted in his county and sentenced to be confined in said prison as soon as may be after such conviction and sentence shall have been had and after delivering such convict or convicts to the warden, together with a certified copy of the judgment of conviction of the court ordering such imprisonment, and the warden shall deliver to such sheriff a receipt in which he shall acknowledge having received the prisoner, naming him, which receipt the said sheriff shall file in the office of the clerk of the court where such conviction and sentence were had, and such sheriff shall be entitled to receive from the treasurer of the Territory the amount actually and necessarily expended by him in transporting such prisoner, including the amount paid for boarding and lodging, and such guards as may have been necessary and such further reasonable sum as shall be a fair compensation for the time necessarily spent in transporting such prisoner, to be fixed and allowed by the territorial auditor.

DISCIPLINE OF CONVICTS.

§ 32. WARDEN TO HAVE CUSTODY OF CONVICTS.] All convicts in the prison shall be in the charge and custody of the warden, who shall govern and employ them in the manner prescribed by law, the rules and regulations of the prison and in conformity to the respective sentence under which they shall be confined.

§ 33. OFFICERS AND EMPLOYEES TO PERFORM CERTAIN DUTIES.] All officers and persons employed in and about the prison shall perform such duties in charge and oversight of the pris-

on, the care of the property belonging thereto and the custody, government, discipline and employment of the convicts, as shall be required of them by the warden, in conformity to law and the rules and regulations of the prison, and no such officer or person shall be engaged directly or indirectly in procuring a pardon of any convict confined in said prison, and any person violating the provisions of this section shall be subject to immediate removal.

§ 34. SOLITARY CONFINEMENT.] Every convict against whom the punishment of solitary confinement shall be awarded by sentence of the court, or for violating any of the rules and regulations of the prison, shall be confined in one of the solitary cells, and during said confinement shall be fed on bread and water only, unless a physician called upon to ascertain the fact shall certify to the warden that the health of such convict requires other diet.

§ 35. HARD LABOR.] All convicts sentenced to punishment of hard labor in said prison, shall be constantly employed for the benefit of the Territory. No communication shall be allowed between them and any person without the prison, except under supervision prescribed by the rules of the prison. They shall be confined in separate cells at night time, and in day time all intercourse between them shall be prevented as far as practicable. All communication between male and female convicts shall be prevented.

§ 36. FOOD OF CONVICTS.] The daily sustenance of convicts not in solitary confinement nor in the hospital shall consist of wholesome coarse food, with such proportions of meat and vegetables as the warden shall deem best for the health of the convicts.

§ 37. SAME.] No spirituous liquors or any article of indulgence shall be allowed any convict, except by order of the physician, which order shall be in writing and for a definite period, and the warden may, in his discretion, make moderate allowance of tea or tobacco to convicts as a reward for industry and good behavior.

§ 38. CLOTHING AND BEDDING.] The clothing and bedding of convicts shall be of such quality and quantity as the judgment of the warden may direct, consulting the health and comfort of the convicts and the interests of the Territory.

§ 39. POWER OF WARDEN TO MAINTAIN DISCIPLINE.] All necessary means shall be used, under the direction of the warden, to maintain order in the prison, enforce obedience, suppress insurrections and effectually prevent escapes, even at the hazard of life, for which purpose he may at all times command the aid of the officers of the institution and of the citizens outside the precincts of the prison, and any citizen refusing to obey such command shall be held liable to such fines, penalties and forfeitures as apply to persons refusing to obey a sheriff, or other officer calling upon the aid of the county to assist in serving a process or for quelling an insurrection.

§ 40. TREATMENT OF PRISONERS.] The warden and all prison officers shall uniformly treat prisoners with kindness and the warden shall require of the officers that in the execution of their respective duties, they shall, in all cases, refrain from boisterous and unbecoming language in giving their orders and commands. There shall be no corporal or other painful and unusual punishment inflicted upon convicts for violation of prison rules.

§ 41. EFFECTS OF CONVICT.] The money and effects, except the clothes, in possession of each convict when committed to the prison, shall be preserved by the warden and restored to the convict when discharged.

§ 42. CONVICT'S DISCHARGE.] Every convict when discharged shall be provided with a decent suit of clothes and a sum of money not to exceed five dollars and transportation to the place where the convict received sentence, and may also be allowed employment in the prison under the rules established for the government of convicts for such period of time and at such rate of compensation as the warden shall deem proper and equitable.

§ 43. DEATH OF CONVICT.] The warden shall in case of death of any convict cause the body to be decently buried or deliver it to the relatives or friends of such convict if demanded by them within twenty-four hours.

§ 44. EMPLOYING CONVICT OUTSIDE PRISON.] If the warden shall at any time deem it for the interest of the Territory, he may employ the convicts outside the prison yard in quarrying or getting stone from and cultivating the prison farm, or in doing any work necessary to be done in the prosecution of

the regular business of the institution; and in all such cases the warden shall detail such force from the prison police as he shall deem necessary to watch and guard them, and in case any convict employed outside the prison yard shall escape, he shall be deemed as having escaped from the prison proper: "*Provided, however,* That the warden shall be held responsible for the escape of any prisoners through the carelessness or neglect of himself or any of his subordinates."

§ 45. RECORD AND CERTIFICATE OF CONVICT'S CONDUCT.] The warden shall keep a true record of the conduct of each convict, specifying each infraction of the rules of discipline. At the end of each month the said warden shall give a certificate of good conduct to each convict who shall require it against whom is recorded no infraction of the rules of discipline.

§ 46. MODIFICATION OF SENTENCE.] When any convict sentenced to periodical terms of solitary confinement shall, after suffering one term of solitary confinement, conduct himself in a peaceful, obedient and industrious manner, the board of directors may exempt him from further solitary confinement during good behavior.

§ 47. CAPTURE OF ESCAPED CONVICTS.] The warden may adopt such measures as he may deem proper, with the approval of the directors, to aid in detecting and capturing escaped convicts.

UNITED STATES CONVICTS.

§ 48. UNITED STATES CONVICTS TO BE RECEIVED.] The warden shall receive into the prison all persons convicted before any district court of this Territory for an offense against the laws of the United States, and sentenced by such court to punishment of imprisonment at hard labor in said prison, and he shall safely keep and employ such convicts pursuant to their sentence, under the rules and regulations of the prison, until such sentence shall be performed or such convicts be otherwise discharged by due course of law of the United States.

§ 49. ACCOUNTS AGAINST UNITED STATES.] The warden once every six months shall make out and present for settlement to the proper auditing officer of the United States a certified account of the amount which shall then be due and unsettled for the support and maintenance of United States convicts in the territorial prison in this Territory.

§ 50. FUNDS RECEIVED FROM UNITED STATES—HOW DISBURSED.] Whenever the amount due for the maintenance of United States convicts shall be audited and allowed as provided by the preceding section, the warden shall file with the auditor of the Territory a copy of such account with the amount allowed thereon. The auditor shall thereupon draw his warrant upon the territorial treasurer for the amount so allowed, payable to the warden out of the territorial treasury for the use of the territorial prison, when the same shall be received from the United States.

§ 51. WARDEN'S ANNUAL REPORT.] The warden when making his annual report shall include therein the number of United States convicts in the prison at the date of such report, the whole number therein during the preceding year, the number received and the number discharged during the same time, the amount received from the general government for their support and maintenance, and also the amount that may be due and unaudited for like purpose.

§ 52. OATH OF PRISON OFFICIAL.] Each officer, overseer or keeper employed in or about the prison shall take an oath before some officer authorized to administer oaths, to discharge the duties respectively required by law and the regulations of the prison faithfully and to the best of his ability.

LEASING THE LABOR OF THE CONVICTS.

§ 53. LEASING PRISON LABOR.] The warden is authorized and empowered by and with the advice and approval of the board of directors of said prison, to lease from time to time the labor of such portion of the prisoners confined therein, together with such shop room, machinery and power as may be necessary for their proper employment, to such persons for such purposes upon such terms and conditions and for such length of time, not exceeding five years at any one time, as he shall deem most conducive to the interests of the Territory and the welfare of the prisoners.

§ 54. IN ALL CONTRACTS CERTAIN RIGHT RESERVED.] In every contract made pursuant to the authority herein conferred there shall be reserved to the directors of said prison and to the warden, and each and every of his subordinates, full power and authority to prevent the demanding or imposition of un-

usual or severe labor, or labor whereby the health or safety of the convicts may be impaired or jeopardized; and the said warden may from time to time prescribe all needful rules for the government and conduct of all contractors, their overseers and agents in their relations to the convicts, and may require summary dismissal of any individual employed by any contractor in said prison whenever it shall appear that the presence or conduct of such individual is prejudicial to the discipline of the prison or the welfare of the convicts.

§ 55. SECURITY TO BE GIVEN BY CONTRACTORS.] Adequate security shall be exacted of all contractors for the faithful performance of all the provisions of the contracts on their part to be performed, and the directors and warden of said prison shall use their utmost endeavors to have all the terms and conditions of said contracts fully complied with on the part of the warden: but no contractor shall have or claim from the Territory of Dakota, or the warden, or from the prison, or any of its funds, any damages whether by way of recoupment, set off, or otherwise for or on account of the failure or neglect of said warden to furnish to such contractor the labor of the full number of convicts specified in his contract.

§ 56. BOARD OF DIRECTORS TO MAKE RULES.] The board of directors of said prison are empowered to make all needful rules and regulations for the guidance of the warden in the exercise of the authority herein conferred upon him, and may, whenever in their judgment it is impracticable to continue to furnish the labor of convicts to any contractor, order and direct the cancellation of any contract, and thereupon, after six months' notice to such contractor, all obligations of the warden under such contract shall cease and determine, and such contractor shall not have or be entitled to have any compensation, whether by way of damages, set-off, recoupment or otherwise, in consequence thereof.

§ 57. MODIFICATION OF SENTENCE.] Whenever any convict convicted under the territorial law by continued good behavior, diligence in labor or study, or otherwise, shall surpass the general average of convicts, he may be compensated therefor, at the discretion of the governor, upon the recommendation in writing of the directors, either by diminishing the period of his confinement or by payment in money, or both.

§ 58. CONVICT LABOR—HOW LET.] Before entering into any contract for the leasing of convict labor, the warden shall, by public advertisement, invite sealed proposals for the hiring of such labor, shop room, machinery and power. Such advertisement shall specify the time and place when and where such proposals will be opened and considered, and there shall be reserved the right to reject any or all bids that may be made.

§ 59. WHEN CONVICT BECOMES INSANE.] Whenever it shall appear to the satisfaction of the governor, by the representations of the warden and directors of the territorial prison, that any person confined therein, in pursuance of a sentence of any court within this Territory, has become insane during such imprisonment and is still insane, it shall be lawful for the governor to make inquiry thereof, and if he shall determine that such person has become and is insane, to make an order that such person be taken from said prison and be confined and treated in one of the Territorial Hospitals for the Insane, and upon his recovery from such insanity, if before the expiration of his sentence, that he be returned to said territorial prison; and it shall be the duty of the warden of said prison to deliver such insane person to the superintendent of such hospital, and such superintendent shall receive such person into such hospital upon the presentation of such order and in obedience thereto, and the expense of the same shall be audited by the auditor and paid upon his warrant out of the territorial treasury.

§ 60. EXPENSES IN CASE OF DIVISION OF TERRITORY.] That in case of any division of the Territory of Dakota before the expenses hereby incurred shall have been paid, that part of said Territory in which the penitentiary is located after such division, shall assume and pay all debts, bonds and liabilities of the said Territory of Dakota existing on the date of such division by reason of the erection of the building herein provided for.

§ 61. All acts and parts of acts in conflict with this act are hereby repealed.

§ 62. This act shall take effect and be in force from and after its passage and approval by the governor.

Approved, February 8, 1881.

## CHAPTER 105.

## REMOVAL OF PRISONERS.

AN ACT to Provide for the Removal of Territorial Prisoners to the Territorial Penitentiary when Completed.

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

§ 1. GOVERNOR TO MAKE PUBLIC PROCLAMATION OF COMPLETION OF TERRITORIAL PRISON.] The governor of this Territory shall upon the completion of the territorial penitentiary located at Sioux Falls in the county of Minnehaha, ready for occupancy, issue his proclamation announcing such fact, and shall cause a copy of the same to be mailed to each sheriff, and judge of the district court, in this Territory, and publish the same in a daily newspaper for at least thirty days, and thereafter any and all persons sentenced to imprisonment in the territorial prison shall be committed to such prison.

§ 2. GOVERNOR TO NOTIFY DETROIT PENITENTIARY OF TERMINATION OF CONTRACT. REMOVING PRISONERS.] Whenever in the opinion of the governor said penitentiary is sufficiently progressed to justify it, he shall give due notice as provided in the contract with the house of correction located at the city of Detroit in the state of Michigan, terminating such contract. And upon the completion of said penitentiary all territorial prisoners sentenced by any court held in the Territory of Dakota shall be removed from the house of correction in the state of Michigan, to the territorial penitentiary at Sioux Falls, in the Territory of Dakota; and the proper officers of said territorial penitentiary at Sioux Falls are hereby authorized and empowered to receive said prisoners, and they shall be confined therein according to law and the rules and by-laws of said penitentiary, the same in all respects as though such prisoners had been originally sentenced and committed to said territorial penitentiary at Sioux Falls. And all expense of such removal and advertising shall be certified to the auditor by the governor, and thereupon said auditor is hereby authorized and empowered to draw his warrant for such amount upon

the territorial treasurer who is authorized and directed to pay the same out of any funds in the treasury not otherwise appropriated.

§ 3. REMOVAL OF PRISONERS.] The directors and warden of the territorial penitentiary as soon as the same is completed and ready to receive prisoners shall forthwith procure the transfer of all territorial prisoners and United States prisoners, sentenced by any court in this Territory confined in the house of correction of the state of Michigan, to the territorial penitentiary, and for the purpose may summons the sheriffs or any of their deputies from the counties nearest said penitentiary in any number sufficient for the purpose; when they shall organize under regulations to be approved by the governor of the Territory, and with an order from the governor shall proceed to Detroit, in the state of Michigan, and there take charge of such prisoners and deliver them with the least possible delay to the proper officers of the penitentiary.

§ 4. FEES OF OFFICERS FOR REMOVAL.] The fees which shall be allowed to any sheriff or deputy sheriff summoned to assist in the removal of said prisoners shall be three dollars per day, and actual and necessary traveling expenses for the time actually employed for the purpose named, and this shall be in lieu of all other fees.

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

Approved, March 3, 1881.