

SPECIAL LAWS.

County Auditor.

CHAPTER 1.

AN ACT Creating the Office of County Auditor in Certain Counties, and Defining the Duties thereof.

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

§ 1. AUDITOR TO BE ELECTED.] There shall be elected in the counties of Pembina, Walsh, Grand Forks, Lincoln, Traill, Cass, and Richland, a county auditor, who shall hold his office for two years from the first Monday in March succeeding his election and until his successor is elected and qualified, and shall keep his office at the county seat.

§ 2. BOND AND OATH.] Each county auditor previous to entering upon the duties of his office shall give bond to the people of the Territory of Dakota, with two or more sureties, to be approved by the board of county commissioners, in such penal sum not less than two thousand dollars nor more than twenty thousand dollars, as the said commissioners require, conditioned for the faithful performance of the duties of his office, and shall also take and subscribe the oath required by law, to be endorsed upon the said bond, which bond so endorsed shall be filed and recorded in the office of the register of deeds.

§ 3. PROCEEDINGS AGAINST COUNTY AUDITOR FOR MALFEASANCE IN OFFICE.] If any county auditor fails to make settlement, or pay over all moneys with which he stands charged at the time and in the manner prescribed by law, or misapplies any money which comes into his possession in the discharge of his official duties, the county commissioners shall commence an action against such

auditor and his sureties in the District Court of said county, or other court of competent jurisdiction, and he shall be proceeded against as now provided by law for proceeding against other county officers. In case of suspension, under the provisions of this section, such auditor, if restored to office, shall not be deprived of his salary during the time of suspension, and his reasonable expenses in defending himself upon such hearing shall be paid by the county. If upon the trial of such action such auditor is adjudged guilty of any neglect of duty, or offense charged, the office shall be deemed to be vacant.

§ 4. ACTIONS ON AUDITOR'S BOND.] An action may be brought against the county auditor and his sureties in the name of the Territory of Dakota, and for their use, or for the use of any county or person injured by the misconduct in office of the auditor, or by the omission of any duty required of him by law.

§ 5. EFFECT OF FAILURE TO QUALIFY.] If any person elected to the office of county auditor shall not give bond and take the oath aforesaid, on or before the first Monday of March next after his election it shall be deemed a refusal to serve.

§ 6. VACANCY, HOW FILLED.] When from any cause a vacancy happens in the office of county auditor the board of county commissioners shall appoint some suitable person to fill such vacancy, and the person so appointed shall give bond and take and subscribe the oath aforesaid, and shall hold his office until the next annual election and until his successor is elected and qualified.

§ 7. TEMPORARY DISABILITY PROVIDED FOR.] When any county auditor, having no deputy, is unable by reason of sickness or any other cause, to perform the duties of his office within the time specified by law for their performance, or when both the auditor and his deputy are so disabled by sickness or otherwise, the board of county commissioners shall appoint some suitable person to do and perform the duties of county auditor during such disability, and may require of the person so appointed such bond and security for the faithful discharge of the duties of the office as they deem expedient.

§ 8. WHO INELIGIBLE.] No county commissioner, county surveyor or county treasurer is eligible to the office of county auditor.

§ 9. MAY APPOINT DEPUTY.] County auditors are authorized to appoint deputy auditors by a certificate in writing, who shall, before entering upon the duties of their office, take and subscribe the oath required by law, which oath shall be endorsed on the certificate of appointment and filed in the office of the register of deeds; such deputies are authorized to sign all papers and do all other things which county auditors themselves may do. The county auditor shall be responsible for the acts of their deputies,

and may revoke their appointment at any time. They shall require bonds of their deputies in such amounts and with such sureties as they may deem proper.

§ 10. SHALL BE CLERK OF BOARD.] The county auditor shall, by virtue of his office, be clerk of the board of county commissioners of his county, and keep an accurate record of their official proceedings, and carefully preserve all the documents, books, records, maps and other papers required to be deposited or kept in his office, and prepare a financial statement of the county, annually, unless otherwise ordered by the board of county commissioners.

§ 11. SHALL DELIVER MONEY, BOOKS, PAPERS, ETC., TO SUCCESSORS.] On going out of office he shall deliver up to his successor in office all the moneys, books, records, maps, documents, papers, vouchers, and other property in his hands belonging to the county; and in case of the death of any county auditor, his personal representatives shall in like manner deliver up all such books, moneys, records, maps, documents and other property.

§ 12. SHALL KEEP AN ACCOUNT WITH TREASURER.] He shall keep an accurate account current with the treasurer of his county, and when any person shall deposit with the auditor any receipt given by the treasurer for money paid into the treasury, the auditor shall file such receipt in his office and charge the treasurer with the amount thereof.

§ 13. CLAIMS HOW ALLOWED—MONEY, HOW DISBURSED.] No claim against the county shall be paid otherwise than upon the allowance of the county commissioners, upon the warrant of the chairman of the board, attested by the county auditor, except it is authorized to be fixed by some other person or tribunal, in which case the sum shall be paid upon the warrant of the county auditor, upon the proper certificate of the person or tribunal allowing the same:

Provided, That no public money shall be disbursed by the county commissioners, or any of them, but the same shall be disbursed by *by* the county treasurer upon the warrant of the chairman of the board of county commissioners, attested by the county auditor, specifying the name of the party entitled to the same, on what account and upon whose allowance, if not fixed by law; and all such orders shall be progressively numbered, and the numbers, date and amount of each, and the name of the person to whom payable, and the purpose for which drawn, shall at the time of issuing the same be entered in a book to be kept by the auditor for the purpose.

§ 14. SALARY FOR AUDITORS—ALLOWANCE FOR CLERK HIRE.] The salary of the county auditor shall be regulated by the value of the property in their respective counties, as fixed by the Territorial board of equalization for the preceding year, as follows:

In counties where the amount of taxable property does not exceed the sum of one and one-half million dollars they shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars and one mill on each dollar of all amounts in excess of said last named sum, and less than two hundred thousand dollars, and one-tenth of one mill on each dollar on all amounts in excess of said last named sum. In counties where the value of taxable property for the preceding year as fixed by the said board of equalization, exceeds the sum of one and one-half million dollars, the county auditor shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars, and one-third of one mill on each dollar in excess of said sum and less than two million dollars, and one-fifth of one mill on each dollar of all sums in excess thereof. In all counties where the valuation of taxable property exceeds one million dollars the county auditor shall be allowed for clerk hire one-fifth of one mill on each dollar of such amount of *such amount* of taxable property not exceeding five million dollars and on all sums in excess of five million dollars one-twentieth of one mill on each dollar thereafter ;

Provided, That no county auditor shall receive more than fifteen hundred dollars for his personal services in counties where the valuation does not exceed four million dollars, nor more than two thousand dollars in counties where the valuation exceeds four million dollars, and does not exceed six million dollars, nor more than twenty-five hundred dollars in counties where such valuation exceeds eight million dollars and does not exceed ten million dollars, nor more than three thousand dollars where such valuation exceeds ten million dollars. And all moneys received as fees or percentage in excess of the amounts provided for in this act shall be paid by the Auditor at the end of each year into the revenue fund of the county, and

Provided, further, That in the county of Lincoln nothing shall be allowed said auditor for clerk hire.

§ 15. CLERK HIRE, HOW PAID.] The allowance for clerk hire in all cases shall be for actual services rendered, and shall be paid monthly to such clerk or clerks by the treasurer of the county, upon the order of the county auditor accompanied by his certificate that such services have been rendered ; and in no case shall the county auditor be allowed to receive clerk hire unless such services have been rendered.

§ 16. COUNTY CLERK CONSTRUED TO MEAN COUNTY AUDITOR.] Wherever the term county clerk occurs in any of the existing laws of the Territory of Dakota it shall be deemed and held synonymous with and construed to mean county auditor.

§ 18 [17.] CERTAIN OFFICERS TO MAKE APPOINTMENT.] For the purpose of carrying the provisions of this act into immediate effect, the chairman of the board of county commissioners, the judge of probate and register of deeds, in each of said counties are hereby authorized and it shall be the duty of such officers at a special meeting to be held therefor on the second Monday in April after the passage and approval of this act, to appoint a county auditor for their respective counties who shall qualify as in this act provided, and shall hold their office until the general or annual election in 1883, or until his successor shall be elected and qualified.

§ 19 [18.] REPEALED.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 20 [19.] This act shall take effect and be in force from and after its passage and approval.

Approved, March 9, 1883.

Fences.

CHAPTER 2.

FOR THE BLACK HILLS COUNTIES.

AN ACT to Amend An Act, Entitled "An Act to Establish a Fence Law in the Counties of Pennington, Custer, Lawrence, Mandan and Forsythe."

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

§ 1. WHAT SHALL BE DEEMED A LAWFUL FENCE.] That section one (1) of "An act to establish a fence law in the counties of Pennington, Custer, Lawrence, Mandan and Forsythe be amended so as to read as follows :

"Section 1. That in the counties of Pennington, Custer, Lawrence, Mandan and Forsythe, a fence constructed in the manner hereinafter described shall be a lawful fence :

First. By placing the ends of ordinary fence posts firmly in the ground at least twenty inches deep and not more than eight feet distant from each other and by firmly fastening thereto with nails or pins, good sound rails, poles or fencing boards at least six