

§ 7. APPROPRIATION.] There is hereby appropriated out of the Territorial Treasury all the funds realized by the sale of the bonds provided for in this act. And it shall be the duty of the Auditor of the Territory upon the application of the board of trustees or a majority thereof of said school for deaf mutes, to draw on the Territorial Treasurer for the purpose of constructing and furnishing said main building and for the purpose of carrying out the provisions of the aforesaid act.

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

Approved, March 9, 1883.

## Penitentiary.

### CHAPTER 28.

#### SIOUX FALLS—APPROPRIATIONS.

AN ACT Making Appropriations for the Current and Contingent Expenses of the Territorial Penitentiary.

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

§ 1. APPROPRIATIONS FOR PAY OF WARDEN, ETC., AND SUSTENANCE OF PRISONERS.] That the following sums be, and they are, hereby appropriated out of any money in the territorial treasury not otherwise appropriated for the purpose of paying the current and contingent expenses of the Territorial Penitentiary, namely:

For pay of the warden, four thousand dollars; *Provided*, That the person appointed to the office of warden shall possess the qualifications of an office-holder, as prescribed in section 47 of chapter 27 of the Political Code.

For the pay of physician and medicines, one thousand dollars.

For pay of officers, guards, overseers and watchman, twenty six thousand five hundred dollars.

For maintenance of prisoners and for board of officers and employes, twenty-three thousand four hundred dollars.

For the necessary lights, fuel, pay of directors and clothing for prisoners, eleven thousand nine hundred and seventy-five dollars.

For temporary stable, teams and farming implements, two thousand five hundred dollars.

For clothing, cash and transportation of discharged convicts, one thousand seven hundred and fifty dollars.

For incidental expenses of the penitentiary, four thousand dollars.

For temporary yard-wall at the penitentiary building, one thousand five hundred dollars.

For furnishing residence of the warden, one thousand dollars.

2. WARDEN TO MAKE ESTIMATE.] That it is made the duty of the warden, and he is hereby required, to make out and present to the directors of the penitentiary a detailed estimate of the amount of money necessary to meet the current expenses of the prison for the next ensuing month, and upon presentation of said estimate to the Territorial Auditor, duly approved and certified to be correct by the board of directors of said penitentiary, or a majority of them, the Auditor shall draw a warrant upon the Treasurer for the amount of said estimates so certified and approved, in favor of the warden of said penitentiary.

ENDORSED.—Received at Executive Office, February 26, 1883, at 3:30, P. M.

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**Note by the Secretary of the Territory.**

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the Council of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

Geo. H. HAND,  
*Secretary of the Territory.*

## CHAPTER 29.

## SIOUX FALLS—AUTHORIZING ISSUE OF BONDS.

AN ACT Authorizing the Issue of Bonds for the Purpose of Making Permanent Improvements at the Territorial Penitentiary, and to Purchase or Lease Additional Land for a Stone Quarry.

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

§ 1. BONDS AUTHORIZED FOR CERTAIN IMPROVEMENTS.] For the purpose of providing funds to pay the costs of making necessary improvements at the Territorial Penitentiary, to-wit:

Constructing a building for a boiler-house, laundry, hospital and female prison, eight thousand dollars.

A residence for the warden, six thousand dollars.

Furnishing and finishing the upper story of the main building, twenty-five hundred dollars.

Providing steam-heating and plumbing for said buildings, thirty-five hundred dollars.

Purchasing or leasing additional land for stone quarry, three thousand dollars.

Providing machinery and tools, five thousand dollars.

Constructing yard-wall at quarry, two thousand dollars.

The Territorial Treasurer is hereby authorized and empowered, and it is made his duty, to prepare for issue thirty thousand dollars of territorial bonds, running for a period of twenty years and payable at the option of the Territory at any time after five years from the date of the same, and bearing interest at the rate of six per cent. per annum, with coupons attached, made payable semi-annually on the first day of July and January in each year, in denominations of not less than one hundred dollars each.

§ 2. BONDS, HOW EXECUTED.] Such bonds shall be executed for the Territory and under the seal thereof by the Governor and Treasurer, shall be attested by the Secretary and shall be negotiated by the Treasurer.

§ 3. PROPOSALS FOR BONDS.] It shall be the duty of the Treasurer to receive sealed proposals for the purchase of said bonds, after giving notice for thirty days in two newspapers in general circulation, one of which shall be published in the Territory and the other in the city of New York, and shall sell to the person paying par, or the highest premium above par, the whole thirty

thousand dollars of bonds, or such part thereof as may in the judgment of the directors of said penitentiary and the Governor of the Territory, be deemed necessary.

§ 4. BOND TAX.] For the purpose of the prompt payment of principal and interest of the bonds herein provided there shall be levied by the territorial board of equalization at the time the other taxes are levied, and collected in the same manner as other territorial taxes are collected, such sums as shall be sufficient to pay such interest and the exchange thereon; and after ten years from the first day of May, 1883, in addition thereto, a sinking fund tax shall be annually levied, sufficient to retire and pay said bonds at their maturity, and it shall be the duty of the Territorial Treasurer to pay promptly on the first days of July and January of each year, such interest as shall then be due, and to purchase said bonds at their market value, and retire and cancel the same with the sinking fund tax as fast as the same shall be received. And no tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose.

§ 5. INTEREST PAID FROM OTHER FUNDS—WHEN.] If for any reason the Territorial Treasurer shall not have in his hands sufficient of the funds herein provided to pay either principal or interest upon such bonds when due, he shall pay such interest or principal out of any other unappropriated fund belonging to the Territory. And there is hereby appropriated and set apart out of the general funds belonging to the Territory a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided can be made available, and it shall be the duty of said Treasurer to pay said interest promptly at the time it falls due, out of said funds.

§ 6. REPLACING FUNDS.] All money belonging to the general territorial fund, appropriated by said Treasurer in payment of either principal or interest of said bonds, shall be replaced from the special tax levied to pay the same.

§ 7. IMPROVEMENTS, HOW TO BE MADE.] That the work and improvement specified in the first section of this act may be done under contract, let to the lowest responsible bidder, after thirty days notice printed in two or more newspapers published in the Territory, provided the person or persons to whom said contract or contracts may be let, shall give bonds for the faithful performance of the contract or contracts in such sum or sums as the Governor and directors may require; or the said directors may construct said buildings or any portion thereof, or do and perform any of said work by or with the aid of the labor of the convicts of said prison as in the judgment of the Governor and directors of said penitentiary may be thought advisable and for the public interest

§ 8. PAYMENTS, HOW MADE.] All payments for labor done or material furnished shall be made upon a statement certified and approved by the board of directors or a majority of them. Upon such statement the Auditor shall draw a warrant upon the Territorial Treasurer for the amount stated and certified to be due.

§ 9. APPROPRIATION.] For the purpose of performing and accomplishing the work and making improvements mentioned in this act, there is hereby appropriated out of the territorial treasury the sum of thirty thousand dollars, or so much thereof as may be necessary, being the proceeds of the bonds hereby authorized to be issued and negotiated, and the proceeds of said bonds shall not be used for any other purpose whatever.

§ 10. DEBT, IN CASE OF DIVISION.] That part of the Territory of Dakota in which the penitentiary is or may be situated, shall, on the division of the Territory, assume all debts and liabilities arising and existing under the provisions of this act.

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

Approved, March 9, 1883.

## CHAPTER 30.

BISMARCK—PROVIDING FOR THE ERECTION AND GOVERNMENT OF A TERRITORIAL PENITENTIARY.

AN ACT to Provide for the Building and Government of a Territorial Penitentiary for Dakota at Bismarck.

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

§ 1. WHERE ESTABLISHED.] That a Penitentiary of the Territory of Dakota shall be erected and continually maintained for the care and custody of convicts in Dakota, or of such thereof as may be assigned or sentenced thereto, on a tract of land hereafter to be selected by the directors provided for in this act, within the corporate limits of the city of Bismarck, in the county of Burleigh, Dakota Territory, or within a radius of one mile of the corporate limits of said city.

§ 2. BOARD OF DIRECTORS.] That said Penitentiary shall be erected and constructed under the direction and government of a board of directors composed of six persons, who shall be appointed by the Governor of the Territory with the advice and consent of the Council. Said directors shall hold their offices respectively, except those appointed to the first board, for the term of six years, or until their successors are elected 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 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. GOVERNOR TO APPOINT.] Immediately upon the passage of this act it shall be the duty of the Governor to appoint the members of the first board of directors, two of whom he shall appoint for two, two for four, and two for six years, and at every session of the Legislative Assembly thereafter;

*Provided,* That said body shall not meet oftener than once in two years, shall appoint two directors as provided in section two of this act.

§ 4. DIRECTORS TO 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 to one hundred and fifty persons, at a cost for said building and fixtures complete not to exceed fifty thousand (\$50,000.00) dollars, upon the tract of land which may be selected as provided for in section one of this act, and for that purpose shall advertise for plans and specifications for a suitable building for a Penitentiary, which plans may or may not be accompanied with the price for which the projector will perform the work and erect the said building. From the plans so furnished, if the 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, or at such other public place which said Treasurer may designate, and be open for inspection for four weeks, during which time parties desiring to make proposals to erect the said building on the plan so selected and placed on file as aforesaid, shall submit the same to the said directors, together with the names of parties who will guarantee that if the proposal be accepted, the work shall be performed according to the plans and specifications so selected, and under such contract as may be required by said board. At the expiration of the time aforesaid and on a day of which public notice shall be given, the

said board of 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.

§ 5. MATERIAL TO BE USED.] That the walls of said building containing the cells and of the prison yard of said Penitentiary, shall be constructed of good substantial stone or brick 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.

§ 6. CONTRACT—WHAT TO STIPULATE.] The contract shall stipulate, that the walls shall be constructed of stone, of suitable size and fine texture or of brick as aforesaid, and shall be laid in good cement, and that all other material shall be of good quality of the classes specified, and that the work of erection shall be constantly prosecuted, and that the said building, erection and enclosure shall be completed according to the said contract and the plans and specification aforesaid, and the whole building and work completed within one year from the date of letting said contract.

§ 7. PARTIAL PAYMENT.] 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 fund appropriated by section one of this act.

§ 8. REPORT OF DIRECTORS.] 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 shall also give in detail a statement of the transactions of the Penitentiary for the preceding year including the receipts from all sources, all expenditures, and all other matters pertaining to the general business, construction and discipline of the Penitentiary; also a full statement of the number of convicts received into the Penitentiary, and from what county received and for what crimes convicted; the number discharged, died, escaped and pardoned, and the general health of the convicts. 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.

§ 9. PAY 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.

§ 10. PENITENTIARY TO BE PRISON OF THE TERRITORY.] The said Penitentiary when completed as herein provided shall be a 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 shall hereafter be committed and sentenced according to law, by the District Court of the Third Judicial District of the Territory of Dakota, from any of the counties comprising said district ;

*Provided,* That convicts may be transferred from the Penitentiary at Sioux Falls, to said Penitentiary at Bismarck, or from the Penitentiary at Bismarck to that at Sioux Falls under the direction of the Governor of the Territory, whenever in his judgment, the interests of the Territory will be promoted thereby ;

*Provided, further,* That should there be a division in said Judicial District that the same shall not affect the provisions of this act, its true intent and meaning being, that all prisoners and convicts sentenced to the Penitentiary from the Territory now embraced in said Judicial District, shall be confined in said Penitentiary at Bismarck, unless transferred therefrom as provided for above.

§ 11. JURISDICTION OF BURLEIGH COUNTY.] 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 Burleigh, and the courts of said county shall have jurisdiction of all the crimes and offences committed within the same.

§ 12. PROCESS, BY WHOM SERVED.] 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.

§ 13. OFFICERS.] The officers of the Penitentiary shall consist of the board of directors as herein provided, one warden, one gate keeper, one turnkey, and such guards, overseers and laborers as may be necessary.

§ 14. WARDEN.] 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. 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, no to exceed two thousand [dollars] per annum, and all other officers and employes such amounts as the directors may from time to time determine and fix upon.

§ 16. VISITING PRISON.] The directors shall appoint some one of their number, from time to time, whose duty it shall be to visit the prison at least once in each month, and inspect the books and all the concerns of the prison, and ascertain whether the officers are competent and faithful, and the convicts properly governed and employed and cared for, and said visitor shall have power to direct any alteration, or change therein, with the assent of the directors.

§ 17. RECORDS OPEN TO INSPECTION.] All books and documents relating to the concerns of the prison, shall at all times be open to the examination of the directors and the public.

§ 18. DUTIES AND RESPONSIBILITIES OF WARDEN.] The warden shall, under the direction of the directors, have the charge and custody of the prison, with all lands, buildings, furniture and 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 secretary of the board of directors and keep and preserve accurate minutes of all their meetings. 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 such 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. He shall be his own clerk and keep a correct record of all the transactions of his office and a correct account of all his doings. He shall keep a daily journal of the proceedings of the Penitentiary in which he shall note all infractions of the rules and regulations of the Penitentiary by any officer or guard thereof, and make a memorandum of every complaint made by any convict, of cruel or unjust treatment by any officer of the prison, or a want of proper clothing or food, and also any infraction of the rules and regulations of the Penitentiary by any prisoner, naming him and specifying the offence, and also what punishment, if any, was awarded; which journal shall be laid before the directors at every meeting.

§ 19. BOND OF WARDEN.] 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 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. The directors may require the warden to file new bonds, with other and satisfactory security, in a larger sum than that specified above, whenever in their judgment it may seem necessary.

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

§ 21. WARDEN'S RESIDENCE, ETC.] 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 Penitentiary, including the directors, shall 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 Penitentiary.

§ 22. CONTRACTS.] All contracts made on the part of the Territory by the warden on account of the Penitentiary, 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.

§ 23. PUBLIC NOTICE.] 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, brick, iron, or steel, the same shall be contracted for by the warden, 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.

§ 24. AWARDED 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.

§ 25. CONTRACTOR TO GIVE BOND.] All persons contracting under the provisions of the preceding sections shall give bonds to the Territory in double the value of the supplies to be furnished 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.

§ 26. INVOICES.] 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 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.

§ 27. RECEIVING PRISONERS.] The sheriff of each county shall convey to the Penitentiary aforesaid, 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 and sentence of the court ordering such imprisonment, the warden shall deliver to such sheriff a receipt in which he shall acknowledge having received the prisoner (naming him) which said receipt the sheriff shall file in the office of the clerk of the court where such conviction and sentence was had; 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. Each officer, overseer, or keeper, employed in or about the prison, shall take and subscribe 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, which said oaths shall be filed with the warden of the Penitentiary.

§ 28. 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.

§ 29. DUTY OF EMPLOYEES.] All officers and persons employed in and about the prison, shall perform such duties in charge and oversight of the prison, 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 provision of this section shall be subject to immediate removal.

§ 30. 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.

§ 31. **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.

§ 32. **FOOD.]** 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.

§ 33. **LIQUORS.]** 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.

§ 34. **BEDS AND CLOTHING.]** 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 interest of the Territory.

§ 35. **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.

§ 36. **TREATMENT.]** 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.

§ 37. **MONEY AND EFFECTS OF PRISONERS.]** 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.

§ 38. DISCHARGE OF CONVICT.] 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.

§ 39. 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.

§ 40. EMPLOYMENT OF CONVICTS.] 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

§ 41. RECORD OF 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.

§ 42. EXEMPTION FROM SOLITARY CONFINEMENT.] 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.

§ 43. CAPTURING 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.

§ 44. LEASING CONVICT LABOR.] The warden is authorized and empowered by and with the advice and approval of the board of directors of said Penitentiary, to lease from time to time the labor of such portion of the able-bodied prisoners confined therein, together with such shop-room, machinery and power as may be necessary for their proper employment, to such persons for such pur-

poses, 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.

§ 45. RESERVATIONS IN CONTRACTS.] In every contract made pursuant to the authority herein conferred, there shall be reserved to the directors of said Penitentiary, and to the warden and to each and every one of his subordinates, full power and authority to prevent the demanding or imposition of unusual 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.

§ 46. SECURITY FOR FAITHFUL PERFORMANCE OF CONTRACTS.] 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 Penitentiary 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 the contract.

§ 47. RULES AND REGULATIONS.] The board of directors of said Penitentiary 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.

§ 48. PROPOSALS FOR CONVICT LABOR.] 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.

§ 49. REWARD FOR GOOD BEHAVIOR.] Whenever any convict 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 of money, or both.

§ 50. INSANE CONVICT—HOW DISPOSED OF.] Whenever it shall appear to the satisfaction of the Governor, by the representations of the warden and directors of said prison, that any person confined therein 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 Penitentiary; and it shall be the duty of the warden of said Penitentiary, 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 the order of the Governor, and in obedience thereto, and the expense of the same shall be audited by the Auditor of the Territory, and paid upon his warrant out of the Territorial Treasury.

§ 51. IF TERRITORY DIVIDES.] 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 said Penitentiary is located, after such division, shall assume and pay all debts, bonds and liabilities of the said Territory existing on the date of such division by reason of the erection of the building herein provided for.

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

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

Approved, February 27, 1883.

## CHAPTER 31.

## BISMARCK—AMENDING CHAPTER 30.

AN ACT Supplemental and Amendatory of An Act Entitled "An Act to Provide for the Building and Government of a Territorial Penitentiary for Dakota at Bismarck.

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

§ 1. BISMARCK TO DEED LAND FOR BUILDING.] That section one of an act entitled "An Act to Provide for the Building and Government of a Territorial Penitentiary for Dakota at Bismarck," approved February 27th, 1883, be amended by adding at the end thereof the following words, to-wit :

*Provided.* That the city of Bismarck aforesaid, shall, by deed in fee, convey to the directors aforesaid in trust for the Territory of Dakota, a tract of land for the location of said Penitentiary, within the limits aforesaid, of not less than forty acres in area, and,

*Provided, further,* That said tract of land shall be satisfactory to the directors.

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

Approved, March 9, 1883.

## CHAPTER 32.

## BISMARCK—TO PROVIDE FUNDS.

AN ACT to Provide Funds for the Purpose of Building a Penitentiary for Dakota Territory at Bismarck, Dakota, and for other purposes.

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

§ 1. BONDS TO BE ISSUED.] That for the purpose of providing funds to pay the cost of constructing and furnishing of a Territorial Penitentiary at the city of Bismarck, and for the use here-

with, the Territorial Treasurer is hereby authorized and empowered and it is made his duty to prepare for issue fifty thousand (\$50,000.00) dollars of Territorial bonds running for a term or period of twenty years, and payable at the option of the Territory after a term of five years, and bearing interest at the rate of six per cent. per annum with coupons attached, made payable semi-annually on the first day of July and January each year, in denominations of not less than one hundred dollars each. Such bonds shall be executed for the Territory, and under the seal thereof by the Governor and Treasurer shall be attested by the Secretary and shall be negotiated by the Treasurer of the Territory.

§ 2. WHEN TO BE ISSUED, AND PRICE.] Said bonds shall be known and designated as the "Second Dakota Territory Penitentiary Loan," and be kept as a separate fund on the books of the Treasurer, and to be issued and sold in the following manner, viz: Whenever the directors of the Penitentiary shall certify to the Treasurer that contracts with good and sufficient securities have been executed with responsible persons for erecting and completing and furnishing the building and fixtures ready for use of a Penitentiary in accordance with this act, and the "Act entitled an act to provide for the building and government of a Territorial Penitentiary for Dakota Territory, at Bismarck, Dakota," which shall accommodate at least one hundred and twenty-five Territorial prisoners; it shall be the duty of the Treasurer to issue and offer for sale by public advertisement in one or more newspapers, to the person paying par or the highest premium above par, and sell the whole fifty thousand dollars of bonds or any part thereof as may be necessary, and use the proceeds thereof in accordance with the provisions of the act aforesaid.

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

Approved, February 27, 1883.