

## Bail.

### WHEN TO BE TAKEN IN CAPITAL CASES.

#### CHAPTER 19.

AN ACT to Amend Section Five Hundred and Fifty-three of the Code of Criminal Procedure of the Territory of Dakota.

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

§ 1. WHEN BAIL MAY BE ADMITTED.] That section five hundred and fifty-three of the Code of Criminal Procedure of the Territory of Dakota, be and the same is hereby amended to read as follows: § 553. Bail, by sufficient sureties, may be admitted upon all arrests in criminal cases where the punishment may be death, unless the proof is evident or the presumption great; and in such cases it shall be taken only by the supreme court or a district court, or by a justice or judge thereof, who shall exercise their discretion therein, having regard to the nature and circumstances of the offense, and of the evidence and to the usages of law; but if the case has been tried by jury, and the jury have disagreed on their verdict, then the above presumption is removed and the defendant shall thereupon be entitled to bail, unless it shall appear to the court or judge thereof, by due proof, that such disagreement was occasioned by the misconduct of the jury.

COUNCIL CHAMBER, BISMARCK, DAKOTA, }  
March 13, 1885. }

I hereby certify that on the 7th day of March, 1885, the within bill—Council bill No. 178—was returned to the Council, the house in which it originated, without the approval of his excellency, Governor Gilbert A. Pierce, with his objections to said bill in writing. His objections were entered at large upon the journal of the Council, and on the 13th day of March, 1885, the Council proceeded to reconsider the bill, and after such reconsideration two-thirds of the Council voted to pass the bill, the objections of the Governor to the contrary notwithstanding.

Attest :

A. W. HOWARD,  
*Chief Clerk of the Council.*

J. H. WESTOVER,  
*President of the Council.*

HOUSE OF REPRESENTATIVES, }  
BISMARCK, March 13, 1885. }

I hereby certify that the within bill—Council bill No. 178—was received from the Council, together with the Governor's objections thereto March 13, 1885; that the objections of the Governor were read at length, and the ques-

tion stated by the Speaker: "Shall the bill pass notwithstanding the objections of the Governor," and that the bill did pass, more than two-thirds of the House voting in the affirmative.

Attest:

C. M. REED,  
*Chief Clerk of the House.*

GEO. RICE,  
*Speaker of the House.*

## Bill of Exceptions.

### CHAPTER 20.

AN ACT to Amend Section Four Hundred and Sixteen of the Code of Criminal Procedure of the Territory of Dakota.

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

§ 1. WHERE JUDGE REFUSES TO ALLOW.] That section four hundred and sixteen of chapter five of the Code of Criminal Procedure of Dakota Territory, be, and the same is hereby amended by adding thereto the following proviso:

*Provided, however,* if the judge in any case refuse to allow an exception in accordance with the facts, the party desiring the bill settled, may apply by petition to the Supreme Court, to prove the same. The application may be made in the mode and manner and under such regulations as the court may prescribe, and the bill, when proven, must be certified by a justice thereof as correct and filed with the clerk of the court in which the action was tried; and when so filed, it has the same force and effect as if settled by the judge who tried the cause.

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

Approved, February 27, 1885.