

a period of six years and upwards next preceding the regular meeting on which the cancellation takes place.

§ 2. DESCRIPTION TO BE ENTERED IN MINUTES.] Said commissioners, before cancelling and destroying any such warrants, shall cause to be entered in the minutes of their proceedings a brief description thereof, containing the name of the payee, the number, date and amount of each warrant to be destroyed.

§ 3. This act shall take effect on and after July 1, 1887.

Approved March 11, 1887.

COUNTIES—DIVISION OF.

CHAPTER 38.

PRESCRIBING MANNER IN WHICH COUNTIES MAY BE DIVIDED.

AN ACT Authorizing the Division of Counties, and for Other Purposes.

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

§ 1. ELECTORS MAY PETITION.] That whenever five hundred (500) legal voters of any county in this Territory, residing in that portion of the county proposed to be segregated, shall petition the board of county commissioners of such county, requesting the said board to call an election at which the question of the segregation of such county, as in this act provided, may be submitted, and describing in said petition the boundaries of said portion proposed to be segregated, and the proposed name of said new county, which name shall be different from every other county in the Territory, the board of county commissioners of said county shall, within thirty (30) days after receiving such petition, make an order declaring that it is proposed to organize, with the assent of the qualified voters thereof, a new county out of a portion of their county describing, as in the petition, the boundaries of said new county, and to give it the name specified in such petition; and said board shall include in said order a notice for an election to be held by the qualified voters in said portion proposed to be segregated, at the usual voting precincts, on some day within thirty (30) days therefrom, to determine whether or not such territory shall be the county of —— (giving name as specified in the petition referred

to;) *Provided, however,* That no petition shall be considered by any board of county commissioners, in which it is requested that a county be divided so as to leave less than twenty-two (22) congressional townships, or an equivalent in area, to either part of its divisions; and, *Provided further,* That the number of votes polled at the last general election in any portion desiring to be segregated under the provisions of this act, shall have been seven hundred and fifty (750) or more, and that the number of votes cast at the last general election in that portion of a county from which another portion desires to segregate, under the provisions of this act, shall have been seven hundred and fifty (750) or more; and, *Provided further,* That the question of the division of such county shall have never been submitted to a vote in the said county, by reason of any special act of the Legislative Assembly, of the Territory of Dakota.

§ 2. COUNTY COMMISSIONERS GIVE NOTICE OF ELECTION.] The board of county commissioners, petitioned as provided by section one (1) of this act, shall cause twenty (20) days notice of such election to be given by publication in a newspaper, if one be published in the proposed new county, and by posting up three (3) copies of said notice at public places in each of the several election precincts within the boundaries of such proposed new county, and shall, at least ten (10) days prior to such election, appoint three (3) capable and discreet persons possessing the qualification of electors, to act as judges at each precinct and for each of the polls of election; and notices of such election shall be posted, notices of appointments shall be served, and all other matters for such election shall be governed by the laws then existing, so far as they are applicable, for general elections.

§ 3. ELECTORS VOTE BY BALLOT.] The qualified voters of any county to be organized under the provisions of this act shall vote by ballot, having thereon the words: "For organization of . . . county (giving name specified in the petition referred to in section one (1) of this act) 'Yes;'" or the words: "For organization of . . . county (giving name specified in the petition referred to in section one (1) of this act) 'No.'"

§ 4. COUNTY CLERK CERTIFY RESULT OF ELECTION TO SECRETARY OF TERRITORY.] On the fifteenth (15th) day after the close of any election under this act, or as soon thereafter as all the returns are received, the said board of county commissioners shall proceed to canvass said returns and make a statement showing the whole number of ballots cast at such election, the number having the word "Yes" thereon, and the number having the word "No" thereon, and if such county commissioners are satisfied as to the legality of such election, and shall find that two-thirds ($\frac{2}{3}$) of the whole number of ballots cast at said election have the word "Yes" thereon, they shall instruct the county clerk to immediately make a certified copy of such statement and forward the same to the Secretary of this Territory.

§ 5. GOVERNOR TO APPOINT THREE COUNTY COMMISSIONERS.] Within thirty (30) days after receiving said certified copy of such statement, as provided for by the preceding section of this act, if satisfied that the same is genuine, and that the election certified to has been legally held, it shall be the duty of the Governor of this Territory, and he is hereby authorized to appoint three (3) persons, residents of the county organized under this act, possessing the qualifications of electors, who will accept and qualify in such office, county commissioners for such county, who shall hold their office until the first general or annual election thereafter, i. e., until the Tuesday next after the first Monday in the following month of November, and until their successors shall be elected and qualified; and thereupon, upon the qualifying of said commissioners, said county shall be deemed to have existence as such and be governed by the laws of the Territory relating to counties.

§ 6. COUNTY COMMISSIONERS SHALL APPOINT COUNTY OFFICERS.] The county commissioners appointed under the provisions of the preceding section of this act, after having qualified according to law, shall appoint all the county officers of the county organized under this act, and of which they are commissioners as required by law, who, after having qualified, shall hold their offices until the first general election thereafter and until their successors shall have been elected and qualified; *Provided, however,* That all justices of the peace and constables, in office as such, within the boundaries of any county organized under this act, shall continue, by virtue of their election, in office as justices of the peace and constables in and for such county, for the remainder of their term, and shall give bonds to the county organized under this act of the same amount and in the same manner as had previously been given by them to the original county.

§ 7. COUNTY SEAT, HOW LOCATED.] Said county commissioners shall have power to temporarily fix the county seat, and such location shall remain the county seat until the first general election thereafter, when the qualified voters of such county are empowered to vote for and select the place of county seat by ballot, as provided by law; *Provided, however,* That no person shall be entitled to vote at such election unless he is a qualified elector as provided by the laws then existing. Immediately after the selection of said county seat is ascertained, either by the county commissioners' selection thereof or by the canvass of the returns of votes, the county commissioners shall issue their proclamation announcing such fact, and publish the same in a newspaper published in said county, if there be one, or if not, by posting a copy thereof of in a public place in each election precinct of said county.

§ 8. WHEN THE COUNTY COMMISSIONERS TO BE GOVERNED BY EXISTING LAW.—In all matters not specially provided for in this act the county commissioners appointed under this act shall be governed by the laws then existing.

§ 9. WHEN ELECTION IS TO BE GOVERNED BY GENERAL LAW.] All elections under this act, where not otherwise provided, shall be conducted in the same manner as required by law in general elections, and no refusal or neglect on the part of any official to perform his lawful duties in connection therewith shall in anywise affect the validity of said election.

§ 10. COMMISSIONERS TO PROCURE TRANSCRIPTS.] The commissioners of any county organized under this act are hereby empowered and it is made their duty to procure transcripts of all records of the original county that, in their judgment, may be necessary for the use and benefit of their county, and it is hereby made the duty of all county officers having the custody of any books papers and records to allow such commissioners, or any authorized person in their behalf, full and free access to any and all such books, papers and records for the objects and purposes herein named and for the completion thereof.

§ 11. NEW COUNTY SHALL ASSUME JUST PROPORTION OF INDEBTEDNESS.] Any county organized under this act shall assume and pay, as herein provided, a just proportion of the indebtedness of the county from which it segregated, based upon the last assessed valuation of said original county, and in the proportion that the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original county; and it is hereby made the duty of the commissioners of both the county organized under this act and the county from which the latter segregates, to meet together at the county seat of the original county on the third (3d) Monday in the sixth (6th) month following the appointment of county commissioners by the Governor, as provided for in this act. They shall ascertain, as near as may be, the total outstanding indebtedness of the original county on the first (1st) day of January or July, as the case may require, next preceding the date of the joint session provided for in this section, and from such total they shall make the following deductions, to-wit:

1. The amount of all dues for rents.
2. The amount of outstanding bonds given, or money paid for public property owned by, and remaining within, the limits of the original county.
3. The amount of public funds on hand and belonging to the original county on the day for which its outstanding indebtedness is ascertained by the joint board of county commissioners, as provided for in this section, and not belonging to the special funds hereinafter mentioned. The amount remaining after such deductions shall have been made shall, for the purpose, and as a basis for the settlement herein provided, be the amount which the county organized under this act shall pay a proportion of, in the proportion hereinbefore specified, and it shall be the duty of such commissioners to ascertain and fix the amount the county organ-

ized under this act shall assume and pay to the county from which it segregates.

§ 12. CERTAIN MONEYS TO BE TURNED OVER.] All moneys on hand at the time of the settlement provided for in the preceding section of this act, in a county from which a portion segregates, pertaining to special funds, such as fire, school, road funds, and others, and property belonging to the districts within the boundaries of a county organized under this act, shall be turned over in full by the treasurer of the original county to the treasurer of the county organized under this act, and shall be duly receipted for by the latter and shall by him be placed to the credit of the districts within his county, to which they properly belong.

§ 13. WHEN MONEYS TO BE TURNED OVER TO NEW COUNTY.] Any county in which the amount of public funds on hand at the time of settlement provided for in section eleven (11) of this act exceeds the total of its outstanding indebtedness, shall, after deducting such outstanding indebtedness, and after making the deductions provided for in section eleven (11) of this act from the amount of such public funds on hand, pay over to the county segregated from it and organized under this act, a just proportion of such funds, based upon the assessed valuation of the whole of the original county in and for the year prior to the date of such segregation, and in the proportion that the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original county. The boards of county commissioners shall meet as provided in section eleven (11) of this act and ascertain the amount so to be paid, and the board of county commissioners of the original county shall issue warrants for such amount, payable immediately to the treasurer of the county organized under this act, and the amount so received by the latter shall be by him placed to the credit of the proper funds of his county.

§ 14. COMMISSIONERS TO REDISTRICT COUNTY.] The county commissioners of a county from which a portion segregates under this act shall, immediately after such segregation, redistrict their county into the districts provided for by the laws then existing, and shall fill the vacancies occasioned by such segregation in the manner provided by law for filling vacancies in county districts or precinct offices.

§ 15. WHEN DISTRICTS RENUMBERED AND RENAMED.] School districts and road districts within counties affected by this act shall be renumbered so as to make their numbers in each county run consecutively, and the names of school townships may, when necessary, be changed.

§ 16. WHEN DISTRICT TO BE HOLDEN FOR BONDS.] When the boundaries of any school district or school township have been changed under and by the provisions of this act, that portion of such school district or school township in which the school houses

and other property remain shall be holden for the bonds, if any, issued by such school district or school township, and if such portion shall have been attached to another school district or school township the school district or school township to which such portion has been attached shall be holden for the bonds if any, of the school district or school township to which such portion formerly belonged.

§ 17. VALIDITY OF BONDS.] The validity of bonds issued by school districts or school townships prior to the division of any county under this act, shall in no wise be affected by such division or by the renumbering or renaming of the school district or school township that issued them.

§ 18. FEES OF COUNTY COMMISSIONERS.] County commissioners while in the discharge of their duties as provided for in the preceding sections of this act, shall receive the same pay allowed by law as when in the performance of their ordinary official duties.

§ 19. INDEBTEDNESS OF NEW COUNTY.] The amount of indebtedness of a county organized under this act, as ascertained by the two (2) boards of county commissioners, in compliance with the provisions of preceding sections of this act, shall be paid to the county from which it segregates, in the bonds of the new county thus segregated, as hereinafter provided.

§ 20. WHEN BONDS TO BE DATED.] Such bonds shall be dated on the first (1st) day of January or July, from which the outstanding indebtedness of the original county is calculated as provided for in section eleven (11) of this act, shall be issued for a period corresponding with the time or terms on which the obligations of the original county become due and payable, shall be payable at the same place and shall bear the same rate of interest as the obligations of the original county, said commissioners taking care to classify the liquidating bonds, issuing a due proportion of each in proportion to each of the original county obligations bearing different rates of interest and places of payment, and said original county shall have authority to exchange such bonds for an equal amount of obligations of its own of the same class.

§ 21. COUNTY TREASURER TO KEEP BOND REGISTER.] The county treasurer of a county issuing bonds under the provisions of this act shall provide himself with a book to be called the "bond register," wherein he shall note the number and denomination of each bond issued by his county, the date of issue, when and where payable, with such other facts as the county commissioners of his county shall direct, which "bond register," when completed, shall be deposited with the clerk of the county commissioners of his county, and shall be and remain a part of the records of the same.

§ 22. COUNTY COMMISSIONERS TO ISSUE LIQUIDATING BONDS.] The board of county commissioners of a county organized under this act are hereby empowered and directed to issue such liquidat-

ing bonds in denominations as may be required by the old county, not to exceed one thousand (1,000) dollars each, and deliver the same to the county clerk of the old county, who shall receipt therefor, attaching the seal of his office to such receipts, and the county clerk of a county organized under this act shall enter such receipts at large upon the records of the county commissioners and note the same in the bond register of his county.

§ 23. COUNTY COMMISSIONERS TO LEVY TAX.] The board of county commissioners of a county issuing bonds under the provisions of this act shall for each year after the date of issue of such bonds, levy and cause to be collected a tax sufficient to pay the interest on said bonds as it shall become due, and also such sinking funds as shall correspond with the laws under which the bonds of the original county were issued, sufficient to redeem said bonds at maturity; and as fast as such sinking fund shall become available they shall redeem such bonds in the manner provided for redeeming the bonds of the original county; *Provided, however,* that public notice shall be given by such board of county commissioners in a newspaper, if one be published within their county, setting forth that certain bonds, giving their number and otherwise describing them, will be redeemed by their county, and naming the date of such redemption.

§ 24. INTEREST FOR REDEMPTION OF BONDS.] The money collected for the payment of the interest or principal of such bonds shall not be used for any other purpose until such bonds are redeemed; any surplus thereafter shall be placed in the general county fund.

§ 25. REVENUE OF COUNTIES.] The authority of any county from which a portion segregates, under the provisions of this act, for the collection of revenue within the boundaries of the portion segregated, shall cease from the date upon which the two (2) boards of county commissioners, under the provisions of section eleven (11) of this act, base the settlement between their counties and all assessments and levies made by the authority of the county from which a portion segregates, by its officers, in the lawful performance of their official duties, affecting any of the territory embraced in the boundaries of a county organized under this act, shall remain the same and shall be payable to, and collectible by, the lawful authorities of the latter only.

§ 26. JUDICIAL SUBDIVISION.] Any county organized under the provisions of this act shall, as soon as its organization shall have been completed, constitute and be created a judicial subdivision of the judicial district to which it properly belonged at and before the time of its organization.

§ 27. JUDGE TO APPOINT TERM OF DISTRICT COURT.] The judge of the judicial district in which a county organized under this act is created a legal subdivision of his district under the provisions of the preceding section, shall appoint and hold terms of

the district court at the county seat of said county, at least one term each year.

§ 28. VENUE, WHEN CHANGED.] In all actions or proceedings, civil or criminal, the crime wherein was committed, or the disputed premises therein, be within the boundaries of any judicial subdivision created under the provisions of this act, and which properly belong to such subdivision under provisions of the Codes of Civil and Criminal Procedure, the venue thereof shall be changed to the new county by order of the court, or the judge thereof, upon the demand of either party, which demand shall be served upon the opposite party, or his attorney, if either can conveniently be found in this Territory; but if neither can conveniently be found in this Territory, then such change of venue may be made upon filing such demand with the clerk of the district court having the case on its calendar.

§ 29. WRITS, BONDS AND RECOGNIZANCES.] All process, writs, bonds, notices, appeals, recognizances, papers and proceedings in actions, changed to a new county under this act and created a legal subdivision thereunder, issued and made returnable to the district court of the county from which a portion has been segregated and organized under this act prior to the creation of such legal subdivision, shall be taken and considered as made, taken and returnable to the district court within the boundaries of such new judicial subdivision, and such bonds, recognizances and obligations shall be payable to such new county and recoverable upon in the name of such new county, and all papers and certified copies of all proceedings had in such changed actions shall be transmitted by the clerk of the district court of the old to the clerk of the district court of the new county.

§ 30. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

HALL OF THE HOUSE OF REPRESENTATIVES,

BISMARCK, Dak., March 11, 1887. }

I, George G. Crose, Speaker of the House of Representatives, hereby certify that on the 1st day of March, the attached act of the Legislative Assembly of this Territory, "An act authorizing the division of counties and for other purposes," was returned to the House of Representatives, the body in which it originated, without the approval of his Excellency, Governor Louis K. Church, with his objections to this act in writing. His objections were entered at large upon the journal of the House of Representatives, and after consideration action on the act was deferred until this date first above written, when the House of Representatives proceeded to reconsider the act, and after such reconsideration two-thirds of the House of Representatives voted in the affirmative on the question shall the act pass, the objections of the Governor to the contrary notwithstanding.

Attest: W. G. EAKINS,
Chief Clerk.

GEORGE G. CROSE,
Speaker of the House.

COUNCIL CHAMBER,

BISMARCK, Dak., March 11, 1887. }

I hereby certify that the within act, together with the objections of his excellency, Governor Louis K. Church, was received from the House of Representatives this day; that the objections by the Governor were read at length and the question stated "Shall this act be passed, the objections of the Governor to the contrary notwithstanding?" The roll of the Council was called and the act did pass, more than two-thirds of the members of the Council present and voting, voting in the affirmative.

Attest: T. A. KINGSBURY,
Chief Clerk.

G. A. MATHEWS,
President of the Council.