

# L A W S

PASSED AT THE

FOURTEENTH SESSION

OF THE

# LEGISLATIVE ASSEMBLY

OF THE

## TERRITORY OF DAKOTA.

BEGUN AND HELD AT YANKTON, THE CAPITAL OF SAID TERRITORY, ON TUESDAY THE 11th DAY OF JANUARY,  
A. D. 1881, AND CONCLUDED MARCH  
7th, A. D. 1881.

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YANKTON, D. T.,  
BOWEN & KINGSBURY, PUBLIC PRINTERS, PRESS AND DAKOTAIAN OFFICE,  
1881.

## AUTHENTICATION.

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DAKOTA TERRITORY, }  
Secretary's Office, Yankton. }

I hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills, passed by the Legislative Assembly, at the fourteenth session thereof, begun and held at Yankton, January 11, A. D. 1881, now on file in this office, with the exception of clerical errors appearing enclosed in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand and  
{ L. S. } affixed the Great Seal of the Territory of Dakota,  
this fifteenth day of March, A. D. 1881.

GEO. H. HAND,  
*Secretary of the Territory of Dakota.*

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# GENERAL LAWS.

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## Abstracts of Title.

### CHAPTER 1.

AN ACT Amending Section 7, Chapter 39 of the Political Code Relating to Compensation of Public Officers.

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

§ 1. DUTY OF REGISTER AND FEE.] That section 7, chapter 39, of the political code be and the same is hereby amended by inserting between the 9th and 10th lines of said section 7, following: And whenever any person presents an abstract to the register of deeds, who made the same, for continuation of such abstract, it shall be his duty to continue the same, and he shall be entitled to receive ten cents for each new transfer and twenty-five cents for his certificate thereto, and no more.

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

Approved, March 4th, 1881.

## Acknowledgments.

### CHAPTER 2.

AN ACT Relating to Sections 625, 626, 660, 661 and 666 of the Civil Code of the Territory of Dakota, Approved, February 16th, 1877.

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

§ 1. REPEAL OF LAW RELATING TO ACKNOWLEDGMENTS BY MARRIED WOMEN.] That section six hundred and twenty-five, section six hundred and twenty-six and section six hundred and sixty of the civil code be and the same are hereby repealed.

§ 2. PRESCRIBING ACKNOWLEDGMENT BY MARRIED WOMEN.] That section six hundred and sixty-one of the civil code be and the same is hereby amended, so as to read as follows: § 661. A conveyance or other instrument, executed by a married woman has the same effect as if she were unmarried, and may be acknowledged in the same manner.

§ 3. REPEAL OF FORM OF ACKNOWLEDGMENT BY MARRIED WOMEN.] That sub-division three (3) of section six hundred and sixty-six of the civil code be and the same is hereby repealed.

§ 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. That this act shall be in force and effect from and after its passage and approval.

COUNCIL CHAMBER, }  
Yankton, D. T., February 16th, 1881. {

I hereby certify that on the 14th day of February, 1881, this act was returned to the council, the house in which the same originated, without the approval of his excellency, Governor N. G. Ordway, with his objections to this bill in writing. His objections were entered at large on the journal of the council, and the council proceeded to reconsider the bill on the 15th of February, 1881, and after such reconsideration, two-thirds of the council voted to pass the bill, the objections of the governor to the contrary, notwithstanding.

Attest:

E. B. DAWSON,  
Chief Clerk.

GEO. H. WALSH,  
President.

I hereby certify that on the 15th day of February, this bill together with the objections of the governor, was received from the council by the house; that it was made the special order for the 17th at 2 o'clock p. m.; and that on the 17th day of February, 1881, at the hour named, consideration was had of the

bill, and the question being put, "Shall the bill pass, the objections of the governor to the contrary, notwithstanding?" it was decided in the affirmative, the necessary two-thirds voting to pass the bill and thus it was approved by the house.

Attest:

FRANK J. MEAD,  
Chief Clerk of the House.

J. A. HARDING,  
Speaker of the House.

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## Agricultural College.

### CHAPTER 3.

AN ACT to Locate and Establish a State Agricultural College.

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

§ 1. LOCATION. PURPOSE. DONATION OF LAND.] That an agricultural college for the Territory of Dakota be established at Brookings, Brookings county, Dakota, the exclusive purpose of which shall be the instruction of persons, both male and female, in such branches as may be prescribed by the board of education herein provided for: *Provided*, That a tract of land not less than eighty acres, adjacent to said town of Brookings, be secured and donated to the Territory of Dakota, in fee simple, as a site for said college, within one year from the taking effect of this act, and the Governor of the Territory is hereby empowered and it is made his duty to see that a good and sufficient deed be made to the Territory for the same.

§ 2. TRUSTEES, NUMBER AND HOW APPOINTED. TERM OF OFFICE, AND OFFICERS.] The said agricultural college shall be under the direction of a board of trustees, consisting of five members, four of whom shall be appointed by the governor, and the fifth member shall be the superintendent of public instruction, who shall be *ex officio* president of said board. The other four members shall hold their offices for one, two, three and four years respectively, as by the governor designated at the time of appointment. The board shall select a

treasurer and secretary from their number, and the treasurer shall execute to the Territory a bond with sufficient sureties in such sum as the board may direct.

§ 3. MEETINGS AND POWERS OF BOARD.] Said board shall have meetings from time to time as they may deem advisable, not less than once every year, and they shall have power to direct the management of said college in all its departments, to employ teachers and make such rules and regulations as they shall deem necessary; to prescribe a course of study, the requisites to graduation, and the degrees to be conferred thereupon.

§ 4. FUNDS, MANNER OF DISBURSEMENT.] All funds appropriated for the use and benefit of said college shall be under the direction and control of the board of trustees, and the treasurer of the territory shall pay out of the agricultural college fund, all orders or drafts, which shall have been audited by the board and signed by the president and secretary of the same. Said orders shall be certified to the territorial auditor as herein provided, and he shall draw his warrant upon the territorial treasurer for the payment of the same.

§ 5. BOARD TO MAKE REPORT.] The board of trustees shall render to the legislature at each session thereof, a full and complete report of its operations, which report shall be prepared and printed before or at the date of the meeting of the legislature.

§ 6. COMPENSATION OF BOARD.] The members of the board of trustees shall be entitled to receive the sum of three dollars per day and all necessary traveling expenses while attending to the business of the college, which shall be in full of all compensation which they shall receive, and said accounts shall be audited by the board and paid out of the agricultural college fund.

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

Approved, February 21st, 1881.

## Appeals.

FROM COURTS OF JUSTICES OF THE PEACE.

### CHAPTER 4.

AN ACT to amend Section Eighty-nine of the Justices' Code.

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

§ 1. WHO MAY APPEAL. HOW TAKEN. WHAT NOTICE TO STATE.] That section eighty-nine of the justices' code be and the same is hereby amended to read as follows: § 89. Any party dissatisfied with a judgment rendered in a civil action in a justice's court, may appeal therefrom to the district court of the county or sub-division at any time within thirty days after the rendition of the judgment. The appeal is taken by serving a copy of the notice of appeal on the adverse party or his attorney, and by filing the notice of appeal with the justice. The notice must state whether the appeal is taken from the whole or a part of the judgment, and if from a part, what part, and whether the appeal is taken on questions of law or fact, or both.

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

Approved, February 21st, 1881.

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### CHAPTER 5.

PROCEEDINGS IN DISTRICT COURT.

AN ACT to amend Section 96 of the Justices' Code.

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

§ 1. PROCEEDING IN DISTRICT COURT.] That section ninety-six of the justices' code be amended by adding thereto the following: No notice of trial and note of issue shall be required

to be served or filed in order to bring the cause appealed upon the trial calendar in the district court, but said appeal shall be filed by the clerk on payment of his costs and entered upon the calendar and shall stand for trial as soon as the same is reached in the regular call of the calendar thereafter. If not so filed within fifteen days from the time such appeal was perfected, then the same shall be dismissed by the order of the court at any time thereafter, upon motion of the appellee, after three days notice to the appellant or his attorney.

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

Approved, February 17th, 1881.

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## Apportionment.

### CHAPTER 6.

AN ACT amending Chapter Two of the Session Laws of 1879, relating to Apportionment of Representation in the Legislative Assembly.

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

§ 1. FIRST DISTRICT.] That chapter two of the session laws of 1879 be and the same is hereby amended as follows: The counties of Union and Clay shall constitute the first council and representative district, and shall be entitled to one member of the council and two members of the house of representatives, and Union county shall be the senior county.

§ 2. SECOND DISTRICT.] The counties of Lincoln, Turner and McCook shall constitute the second council and representative district, and shall be entitled to one member of the council and two members of the house of representatives, and Turner county shall be the senior county.

§ 3. THIRD DISTRICT.] The county of Minnehaha shall constitute the third council and representative district, and shall be entitled to one member of the council and one member of the house of representatives.

§ 4. FOURTH DISTRICT.] The county Yankton shall constitute the fourth council and representative district, and shall be entitled to one member of the council and one member of the house of representatives.

§ 5. FIFTH DISTRICT.] The counties of Bon Homme, Hutchinson, Douglass and Charles Mix shall constitute the fifth council and representative district, and shall be entitled to one member of the council and two members of the house of representatives, and Bon Homme shall be the senior county.

§ 6. SIXTH DISTRICT.] The counties of Moody, Lake and Brookings shall constitute the sixth council and representative district, and shall be entitled to one member of the council and two members of the house of representatives, and Lake shall be the senior county.

§ 7. SEVENTH DISTRICT.] The counties of Hamlin, Deuel, Grant, Codington, Clark, Spink, Day, Brown, Campbell, McPherson, Walworth, Edmunds, Potter and Faulk shall constitute the seventh council and representative district, and shall be entitled to one member of the council and two members of the house of representatives, and Deuel shall be the senior county.

§ 8. EIGHTH DISTRICT.] The counties of Hanson, Davison, Aurora, Brule, Buffalo, Hughes, Sully, Hyde, Hand, Beadle, Kingsbury and Miner shall constitute the eighth council and representative district, and shall be entitled to one member of the council and one member of the house of representatives, and the county of Davison shall be the senior county.

§ 9. NINTH DISTRICT.] The counties of Pennington and Custer shall constitute the ninth representative district, and shall be entitled to one member of the house of representatives, and Pennington shall be the senior county.

§ 10. TENTH DISTRICT.] The counties of Lawrence and Mandan shall constitute the tenth council and representative district, and shall be entitled to one member of the council and three members of the house of representatives, and Lawrence shall be the senior county.

§ 11. ELEVENTH DISTRICT.] The counties of Pembina, Cavalier and Rolette shall constitute the eleventh representative district, and shall be entitled to one member of the house of representatives, and Pembina shall be the senior county.

§ 12. TWELFTH DISTRICT.] The counties of Grand Forks, Traill and Walsh constitute the twelfth council and representative district, and shall be entitled to one member of the council and two members of the house of representatives, and Grand Forks shall be the senior county.

§ 13. THIRTEENTH DISTRICT.] The counties of Cass and Richland shall constitute the thirteenth council and representative district, and shall be entitled to one member of the council and two members of the house of representatives, and Cass shall be the senior county.

§ 14. FOURTEENTH DISTRICT.] The counties of Barnes, Ransom, LaMoure, Stutsman, Griggs, Foster, Gingras, Kidder, Burleigh, Sheridan, Stevens, Renville, Mountrail, Waudette, Howard, Williams, Mercer, Morton, Stark, Billings, Emmons, Logan and Ramsey shall constitute the fourteenth council and representative district, and shall be entitled to one member of the council and two members of the house of representatives, and Stutsman shall be the senior county.

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

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

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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 House 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.*

## Appropriations.

TO CHIEF CLERKS FOR COMPLETING RECORDS.

### CHAPTER 7.

AN ACT to Provide Compensation to the Chief Clerks of the Council and House of Representatives for Completing the Legislative Records.

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

§ 1. FOR WHAT PURPOSE.] That there be, and is hereby, appropriated out of the territorial treasury, for the payment of the chief clerks of the council and house of representatives, for labor to be performed in compliance with the provisions of section 13, chapter 2, of the political code, after the final adjournment of the legislative body, the amount as hereinafter required by this act.

§ 2. PER DIEM ALLOWED. HOW AUDITED AND FOR WHAT TIME.] That the chief clerks of the said council and house of representatives shall be allowed the sum of six dollars per day for each and every day so occupied in the discharge of such prescribed duty, which said per diem, for each day so employed, shall be paid, on a properly audited account, certified as correct by the secretary of the territory. That the time shall not exceed twenty-five days in which the clerks shall be employed.

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

Approved, February 25th, 1881.

## CHAPTER 8.

## ENGROSSING AND ENROLLING CLERKS.

AN ACT Authorizing the Employment of Assistant Engrossing and Enrolling Clerks, and appropriating funds for the payment of the same.

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

§ 1. COMMITTEE AUTHORIZED TO EMPLOY CLERKS.] That the committee on engrossed and enrolled bills in the House and Council are hereby authorized to employ assistant engrossing and enrolling clerks: *Provided, however,* That before any assistant clerk shall be employed, the body for which he is employed shall sanction such employment.

§ 2. APPROPRIATION FOR PAYMENT OF CLERKS.] Fifty dollars, twenty-five dollars for the House and twenty five dollars for the Council, or so much thereof as is necessary, is hereby appropriated out of the territorial treasury to the payment of assistant engrossing and enrolling clerks, employed in accordance with section one of this act.

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

Approved, February 17th, 1881.

## CHAPTER 9.

## ENROLLING CLERKS.

AN ACT to Compensate the Enrolling Clerks of the Fourteenth Legislative Assembly for Extra Labor of the Session.

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

§ 1. APPROPRIATION TO E. T. WHITE.] That there be and is hereby appropriated out of the funds of the Territory of Dakota not otherwise appropriated, the sum of eighty dollars, to be paid to E. T. White, enrolling clerk of the House of Representatives, for extra labor and service rendered during the present session, and a further sum of twenty-five dollars is

likewise appropriated to be paid to J. B. Hall, enrolling clerk of the Council for similar service, and the territorial auditor is hereby authorized to issue warrants upon the territorial treasurer in favor of the said clerks for the respective sums hereby appropriated.

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

Approved, March 5th, 1881.

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## CHAPTER 10.

### REVISED CODES.

AN ACT to Authorize the Purchase of One Thousand Copies of the Revised Codes of Dakota.

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

§ 1. SECRETARY AUTHORIZED TO PURCHASE.] That the secretary of the territory is hereby authorized and it is made his duty to purchase for the use of the Territory of Dakota, as now provided by law, one thousand volumes of the revised codes of 1877, and to pay therefor not to exceed the sum of three dollars and seventy-five cents per volume, said volumes to be suitably indexed and bound in sheep.

§ 2. APPROPRIATION.] That there is hereby appropriated out of the territorial treasury the sum of thirty-seven hundred and fifty dollars, to enable the said secretary to make such purchase.

§ 3. AUDITOR AUTHORIZED TO ISSUE WARRANTS.] That the auditor of the territory is hereby authorized to audit and allow the accounts of the parties furnishing such codes, when such accounts have been approved by said secretary, and he shall issue his warrant upon the territorial treasurer for the amount of such accounts, which warrants shall be paid by the treasurer of the territory whenever there are funds in the treasury applicable thereto.

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

Approved, February 17th, 1881.

## CHAPTER 11.

## DAKOTA HOSPITAL FOR THE INSANE.

AN ACT Making an Appropriation for Furnishing and Maintaining the Dakota Hospital for the Insane.

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

§ 1. AMOUNTS APPROPRIATED AND FOR WHAT PURPOSES.] There is hereby appropriated out of the territorial treasury for the period of two years, from and after the 22nd day of February, 1881, the following sums, or so much thereof as may be necessary.

For the maintenance of patients in the Dakota Hospital for the Insane, and for their necessary clothing, and for the board of employes and officers necessarily residing in the hospital, the sum of sixteen thousand dollars;

For the necessary wages of employes, the sum of eight thousand dollars;

For necessary fuel and lights, two thousand five hundred dollars;

For necessary incidental expenses, one thousand dollars;

For necessary drugs, medicines, medical books and miscellaneous periodicals, fifteen hundred dollars;

For necessary repairs and improvements for such hospital, fifteen hundred dollars;

For necessary improvements of the hospital farm, two thousand and five hundred dollars.

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

Approved, February 17th, 1881.

## CHAPTER 12.

## PAGES.

AN ACT to Employ Pages and to Provide Compensation for the same.

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

§ 1. EMPLOYMENT OF PAGES AND PER DIEM.] That there shall be appointed by the president of the Council one (1), and by the speaker of the House of Representatives two (2), pages, who shall each receive the sum of one (1) dollar per day for such services, to be audited and paid out of the territorial treasury on accounts certified by the presiding officers of the respective houses.

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

Approved, February 2nd, 1881.

## CHAPTER 13.

## PRINTING.

AN ACT to Provide for Territorial Printing and Appropriate Funds for the Payment of the same.

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

§ 1. APPROPRIATION TO PRINT REPORTS OF TERRITORIAL OFFICERS.] That the sum of two hundred and fifty dollars, or so much thereof as shall be necessary, be and the same is hereby appropriated out of the territorial treasury, to pay for printing the reports of the officers of the Dakota Hospital for the Insane, the Territorial Auditor and Treasurer, and for such other printing as may be ordered by joint resolution of the territorial assembly, to be audited and paid out of the terri-

torial treasury on accounts certified and allowed by the chief clerks of the two houses of the Legislative Assembly or by either one of such clerks in the absence of the other from the city of Yankton, and the rates allowed for such printing shall not exceed the amounts allowed by the United States government for like printing.

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

Approved, February 2nd, 1881.

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## CHAPTER 14.

### REMOVAL OF DEAD BODIES FROM INSANE HOSPITAL GROUNDS.

AN ACT to appropriate the sum of Five Hundred Dollars to aid in the Removal of the Bodies of Persons Interred upon lands belonging to the Insane Hospital of Dakota.

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

§ 1. APPROPRIATION.] That there is hereby appropriated the sum of five hundred dollars, to aid in the removal of the bodies of deceased persons buried upon lands belonging to the Insane Hospital for Dakota.

§ 2. GOVERNOR TO APPOINT COMMITTEE.] There shall be appointed by the governor a committee of three persons, (of which one, at least, shall be a member of the cemetery committee of the Yankton Catholic Church,) under whose supervision this appropriation shall be expended; *Provided*, That such committee shall receive no compensation for their services under this act.

§ 3. COMMITTEE TO FILE BOND.] The committee appointed under this act, before entering upon the discharge of their duties, shall file with the governor a bond, (in such sum as the governor may deem just,) with good and sufficient sureties, conditioned for the faithful performance of their duties,

and upon completion of the work of removal, shall file with the governor a full report of their doings under this act.

§ 4. MONEYS, HOW DISBURSED.] No money shall be paid out under this act, except upon an order signed by at least two of the committee aforesaid, who shall take duplicate vouchers for the same, one of which shall be filed with the governor and the other be kept by the committee.

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

Approved, February 21st, 1881.

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## CHAPTER 15.

### TRANSFER OF FUNDS IN APPROPRIATIONS FOR DAKOTA HOSPITAL FOR INSANE.

JOINT RESOLUTION Authorizing the use of Funds Appropriated to Support the Dakota Hospital for the Insane for the Payment of all Accounts against the same.

AUTHORITY GIVEN TO USE FUNDS FOR ANY PURPOSE.] *Resolved, By the Council and House of Representatives of the Legislative Assembly of Dakota Territory; That the board of trustees of the Dakota Hospital for the Insane be and they are hereby authorized to draw from and use any funds heretofore appropriated for any purpose for the support and maintenance of said hospital, which are or shall remain unexpended, or so much thereof as may be necessary to pay all bills, claims and accounts against any particular fund of said hospital which may be lawfully due until the 22nd day of February, 1881, when said appropriations expire.*

Approved, February 2nd, 1881.

## CHAPTER 16.

## ASSISTANT CLERKS FOR LEGISLATIVE ASSEMBLY.

AN ACT. to Employ Assistant Clerks and to Provide for the Compensation of the same.

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

§ 1. ELECTION AND PER DIEM OF ASSISTANT CLERKS.] That there shall be elected one assistant clerk for each branch of the Legislative Assembly, who shall each receive the sum of six dollars per day for such services during the sessions thereof; to be audited and paid out of the territorial treasury upon an account certified by respective presiding officers of the two houses of said assembly.

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

Approved, January 20th, 1881.

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CHAPTER 17.

## DEAF AND DUMB.

AN ACT Making an Appropriation for the Deaf and Dumb School at Sioux Falls, Territory of Dakota,

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

§ 1. APPROPRIATION FOR BUILDING. PROVISIO.] That there is hereby appropriated from the funds in the territorial treasury the sum of two thousand dollars for the purpose of building a deaf and dumb school at Sioux Falls, Territory of Dakota. *Provided, however:* That said sum shall not be paid until ten acres of land in or near the village of Sioux Falls is deeded to the Territory of Dakota, and a building is erected on said land of the value of three thousand dollars.

§ 2. AUDITOR TO DRAW WARRANT.] That when the building is

erected as provided for in section [one] (1) of this act, and the territorial auditor is satisfied of that fact, it shall be the duty of the territorial auditor to draw his warrant on the territorial treasurer for the sum of two thousand dollars (\$2,000), payable to the treasurer of the deaf and dumb school at Sioux Falls, Territory of Dakota.

§ 3. That this act shall be in force and effect from and after its passage and approval.

Approved, February 23rd, 1881.

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## Attorneys' Fees in Justices' Courts.

### CHAPTER 18.

AN ACT in Relation to Attorneys' Fees in Justices' Courts.

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

§ 1. WHO ENTITLED TO ATTORNEY'S FEES, AND AMOUNT.] In all actions in justice courts, the party obtaining judgment shall be entitled to attorney's fees, as follows: On all judgments less than twenty-five dollars, an amount equal to twenty per cent. of such judgment; on all judgments over twenty-five dollars and under fifty dollars, five dollars as attorney's fees; on all judgments over fifty dollars, an amount equal to ten per cent. of such judgment as attorney's fees; in actions for the recovery of personal property, the value of the property recovered shall govern the amount of attorney's fees to be recovered in such action, and when judgment is for the defendant, the amount claimed in the plaintiff's complaint shall govern the amount of attorney's fees to be recovered by the defendant. *Provided, however;* That no attorney's fees shall be allowed in any such action, unless the party has appeared therein by an attorney of a court of record.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, February 16th, 1881.

## Salary of Auditor.

### CHAPTER 19.

AN ACT to Provide for the Compensation of the Territorial Auditor.

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

§ 1. SALARY.] That from January 1st, 1881, the salary of the territorial auditor shall be one thousand dollars per annum, payable quarterly.

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

Approved, March 1st, 1881.

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## Banking.

### CHAPTER 20.

AN ACT to amend Chapter Four of the Session Laws of the Legislative Assembly of the Territory of Dakota for the year 1879.

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

§ 1. CERTAIN ACT REPEALED.] That chapter four of the session laws of the Legislative Assembly of the Territory of Dakota for the year 1879, entitled, "an act concerning corporations and persons engaged in the business of banking," be and the same is hereby repealed.

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

THE COUNCIL CHAMBER,  
Yankton, D. T., Feb. 26th, 1881. }

I hereby certify that on this day this bill was returned to the Council, the house in which it originated, without the approval of his Excellency, Governor N. G. Ordway, with his objections to this bill in writing. His objections were entered at large upon the journal of the Council, and the Council pro-

ceeded 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:

ELI B. DAWSON,  
*Chief Clerk of the Council.*

GEO. H. WALSH,  
*President of the Council.*

HOUSE OF REPRESENTATIVES, }  
Yankton, D. T., Feb. 26th, 1881. }

I hereby certify that the within bill was received from the Council, together with the Governor's objections thereto, February 26th. That the objections of the Governor were read at length, and the question stated by the chair, "shall the bill pass, notwithstanding the objections of the governor?" and that the bill did so pass, more than two thirds of the House voting in the affirmative.

Attest:

FRANK J. MEAD,  
*Chief Clerk.*

J. A. HARDING,  
*Speaker of the House of Representatives.*

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## Board of Health.

### CHAPTER 21.

AN ACT Authorizing the Board of County Commissioners of the Several Counties of Dakota Territory to act as a Board of Health in their Respective Counties.

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

§ 1. OF WHOM COMPOSED.] That the board of county commissioners of the several counties of this Territory are hereby authorized and empowered to act as a board of health in their respective counties.

§ 2. POWER TO EXPEND MONEY.] That as such board of health, the said board of county commissioners shall have power to expend such sum or sums of money from the county fund as they may deem sufficient to prevent the spread of any epidemic or contagious diseases as may prevail in or threaten their respective counties.

§ 3. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. That this act shall be in force and effect from and after its passage and approval.

Approved, January 29th, 1881.

## Bonds.

### CHAPTER 22.

#### INSANE HOSPITAL.

AN ACT Authorizing the Issue of Bonds to Construct a Hospital for the Insane, and to Provide for the Building of the same.

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

§ 1. APPROPRIATION.] That there be and hereby is appropriated out of the funds provided for in this act, by the negotiation of the bonds herein mentioned, the sum of forty thousand dollars, for the purpose of erecting a Hospital for the Insane.

§ 2. BONDS. DENOMINATION. WHERE PAYABLE AND INTEREST.] To provide such fund, bonds of this Territory shall be issued to the amount of forty thousand dollars, in denomination of five hundred dollars, bearing date the first day of May, 1881, with interest payable semi-annually at some place in New York City, to be specified in said bonds, on the first day of July and January each year, at the rate of six per cent. per annum, running twenty years, and payable at the option of the Territory at any time after five years from the date of the same.

§ 3. BY WHOM EXECUTED AND NEGOTIATED.] 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.

§ 4. MANNER OF SELLING 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 of general circulation, one of which shall be published in the Territory and the other in the city of New York, and said bonds shall be sold to the highest bidder for cash.

§ 5. PROVISIONS FOR PAYMENT OF INTEREST AND PRINCIPAL.] 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, 1881, 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.

§ 6. PROVISIONS FOR PROMPT PAYMENT OF INTEREST.] 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.

§ 7. REPLACING FUNDS.] All moneys belonging to the general territorial fund, applied 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.

§ 8. PROCEEDINGS FOR THE ERECTION OF NEW INSANE HOSPITAL.] The board of trustees and the superintendent of the Hospital for the Insane shall within forty days after the passage and approval of this act, prepare or cause to be prepared a plan and specifications for a building for a territorial Hospital for the Insane, and after the same shall have been adopted and approved by them and the governor of the Territory, said board of trustees shall cause said plan and specifications to be filed with the secretary thereof, and it shall be the duty of said board, within twenty days thereafter, to give at least thirty days notice in two newspapers published in the Territory, of general circulation therein, and in two newspapers

published in adjoining states, that on a day, specified in such notice, they will receive sealed proposals at the office of the superintendent of the hospital, near Yankton, for the building of a territorial Hospital for the Insane, according to the plans and specifications aforesaid, which shall be kept open for the inspection of bidders at some convenient place in the city of Yankton, to be mentioned in said notice.

§ 9. TOTAL COST. WHERE TO BE BUILT.] The total cost of said hospital, including the fixtures, furniture and improvement of grounds, shall not exceed forty thousand dollars, and shall be erected on the section of land now selected for that purpose, near Yankton, in Yankton county, Dakota.

§ 10. CONTRACT FOR BUILDING. BOND OF CONTRACTOR, ETC.] On the day advertised for the opening of said proposals for the erection of said hospital, it shall be the duty of the board of trustees to attend at the place and time so advertised and publicly open said bids, and then and there award the contract for erecting said building according to the plan so selected, to the lowest responsible bidder therefor. *Provided:* That the said contractor shall give bond with sufficient sureties to be approved by the said board of trustees, conditioned for the faithful performance of the contract, in the sum of \$25,000. *Provided:* That the board of trustees shall reserve the right to reject any and all bids, if in their judgment they are too high, and may again advertise for proposals.

§ 11. TIME OF COMPLETION, ETC.] The walls of said building shall be constructed of good brick or stone, and said building shall be made as nearly fire-proof as practicable. The material used in said building shall be examined by the board of trustees or a committee thereof, and they shall reject all material which they deem unsuitable, and the said building shall be all enclosed on or before the 1st day of November, 1881, and said building shall be all completed and ready for occupancy on or before the 1st day of January, 1882.

§ 12. PAYMENTS. HOW MADE.] The board of trustees, as the work progresses, shall on the application of the contractor, certify to the territorial auditor the value of the work done on the building at the time, and on such certified statement the auditor shall issue a warrant on the territorial treasurer for a sum not exceeding eighty-five per cent. of the value of

the work so certified to have been done on said building at the time of making such application, including amount of all warrants previously issued, in part payment of such work; *Provided:* That no part of the funds herein appropriated for the construction of said hospital shall be paid or value of work certified by the trustees until at least one-fourth of the work has been completed by the contractor.

§ 13. CONTRACT. WHAT TO STIPULATE.] The contract aforesaid shall stipulate that all material shall be of good quality and that the work shall be performed in a good workmanlike manner.

§ 14. FINAL PAYMENT.] The balance due the contractor under the contract shall be paid on the completion of the building and its acceptance and approval by the board of trustees.

§ 15. LIABILITY UPON DIVISION OF TERRITORY.] That part of the Territory of Dakota in which said Hospital for the Insane is situated, shall, on the division of the Territory, assume all debts incurred and then existing on account of the construction of said hospital.

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

Approved, February 21st, 1881.

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## CHAPTER 23.

### PENITENTIARY.

AN ACT to Provide Funds for the Purpose of Building a Penitentiary for Dakota Territory, at Sioux Falls, D. T., and for other Purposes.

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

§ 1. MANNER OF PROVIDING FUNDS FOR BUILDING PENITENTIARY.] That for the purpose of providing funds to pay the cost of constructing and furnishing of a territorial Penitentiary and the land upon which the same is [to be] erected, and for use

herewith, the territorial treasurer is hereby authorized and empowered, and it is made his duty to prepare for issue fifty thousand 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 in 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. BONDS KNOWN AND KEPT.] Said bonds to be known and designated as the "Dakota Penitentiary Loan" and to 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 furnishing the land, buildings and fixtures ready for use of a Penitentiary, in accordance with this act, 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, the whole fifty thousand dollars of bonds or any part thereof, as may be necessary, as hereinafter provided.

§ 3. TREASURER AUTHORIZED TO RECEIVE GOVERNMENT APPROPRIATION.] The territorial treasurer is hereby authorized to receive from the United States treasurer any sum of money appropriated by congress for the building and equipment of [a] suitable Penitentiary for this Territory, and to place the same to the credit of the penitentiary fund.

§ 4. GOVERNMENT APPROPRIATION. HOW EXPENDED.] Said appropriation by the United States Congress, to be expended under the same restrictions and to take the place of an equal amount of the fifty thousand dollars of the bonds provided for in this act, and no larger amount of bonds shall be issued under this act than will create a penitentiary fund of fifty

thousand dollars, including all sums appropriated by Congress.

§ 5. BONDS NOT REQUIRED TO BE USED, TO BE CANCELLED.] All bonds not required to be issued by reason of appropriations for a Penitentiary by Congress, shall be retired and cancelled by the governor and territorial treasurer; and no part of the appropriation received from the United States, nor from the proceeds of the sale of the penitentiary bonds shall be issued and expended until contracts for the completion of the Penitentiary provided for in this act shall have been duly executed.

§ 6. PAYMENT OF FUNDS BY TERRITORIAL TREASURER.] After the execution of proper contracts the Penitentiary fund containing the fifty thousand dollars may be paid out by the treasurer upon the approval of the proper accounting officer, during the progress of the building of the Penitentiary; and upon the completion and acceptance of the work, the reserved amount shall be paid; *Provided, however:* That the amounts reserved upon each contract shall not be paid until the directors and the governor shall file certificates with the treasurer that the contracts have been fully executed and the prison accepted.

§ 7. APPROPRIATION FOR SALARIES, ETC.] There is hereby appropriated out of the territorial treasury for the salary of the warden of the territorial prison the sum of three thousand dollars; for assistant warden and other employes, the sum of three thousand dollars; for office, furniture of office, stoves, fuel, lights, incidental expenses of the prison, including pay of directors, including necessary traveling expenses while in the actual discharge of their duties as such directors, the sum of seven thousand dollars, or as much thereof as may be necessary.

§ 8. FOR SUBSISTENCE, CLOTHING, ETC.] There is also appropriated for subsistence, clothing and incidental expenses of the prisoners, for two years, the sum of five thousand dollars or so much thereof as may be necessary for such purpose.

§ 9. PAYMENT OF BONDS IN CASE OF DIVISION OF TERRITORY.] That in case of any division of the Territory of Dakota before the bonds hereby provided for shall be paid, that part of said Territory in which the Penitentiary is, or may be located

after such division, shall assume and pay all debts, bonds and liabilities of the whole Territory existing on the date of said division by reason of this act.

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

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

Approved, February 17th, 1881.

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## CHAPTER 24.

### SCHOOL DISTRICTS.

AN ACT to empower School Districts to issue Bonds for building School Houses.

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

§ 1. WHEN BONDS MAY BE LAWFULLY ISSUED.] Whenever a duly constituted school district in any organized county of this Territory, at a regular school district meeting, or at a special meeting lawfully held for the purpose, shall determine by a majority vote of all the qualified electors of said district present and voting at such meeting, to issue school district bonds for the purpose of building and furnishing a school house and purchasing grounds on which to locate the same, the school board may lawfully issue such bonds in accordance with the provisions hereinafter contained.

§ 2. PROCEEDINGS FOR ELECTION. BALLOTS, PETITION, ETC.] Before the question of issuing bonds shall be submitted to a vote of the district, notices shall be posted in at least three public and conspicuous places in said district, stating the time and place of meeting, the amount of bonds that will be required to be issued and the time in which they shall be made payable, at least twenty days before the time of meeting; and the voting shall be done by means of written or printed ballots, and all ballots deposited in favor of issuing bonds shall

have thereon the words, "For issuing bonds," and those opposed thereto shall have thereon the words, "Against issuing bonds;" and if a majority of all the votes cast shall be in favor of issuing bonds the school board or other proper officers shall forthwith proceed to issue bonds in accordance with the vote, but if a majority of all the votes cast are opposed to issuing bonds then no further action can be had and the question shall not be again submitted to vote for one year thereafter: *Provided, however,* That the question of issuing bonds shall not be submitted to a vote of the district, and no meeting shall be called for that purpose until the district school board shall have been so petitioned in writing by a majority of the resident electors of said school district.

§ 3. DENOMINATION AND INTEREST. LIMIT.] The denomination of the bonds which may be issued under the provisions of this act shall be fifty dollars or some multiple of fifty not exceeding five hundred dollars, and shall bear interest at a rate not exceeding eight per cent. per annum, payable annually in accordance with interest coupons which shall be attached to said bonds; and no greater amount than fifteen hundred dollars can be issued by any district, except in towns and cities of more than one thousand inhabitants; and in such districts the amount shall not exceed five per-cent. of its assessed valuation, and may be made payable in not less than ten nor more than twenty years from their date.

§ 4. FORM OF BONDS.] Whenever any bonds are issued under the provisions of this act they shall be lithographed or printed on good bond paper, and shall state upon their face the date of their issue, the amount of the bond, to whom and for what purpose issued; also the time and place of payment and the rate of interest to be paid. They shall have printed upon the margin the words, "Authorized by act of Legislative Assembly, A. D. 1881," and upon the back of the bonds a certificate signed by the district clerk in substantially the following form: "I certify that the within bond is issued in accordance with a vote of school district No.—, at a regular (or special, as the case may be) meeting on the — day of —, A. D. 188—, to issue bonds to the amount of — dollars." They shall be signed by the director and clerk of the school district or by the president and secretary of the

school board in case of an independent district, and shall be numbered and registered in a book to be kept by the secretary in which shall be entered the number, date and name of the person to whom issued, with the date when the same shall become due.

§ 5. PROVISION FOR PAYMENT OF PRINCIPAL AND INTEREST.] In addition to the amount that may already be assessed under existing law there shall be levied upon the taxable property of all districts so issuing bonds and collected as other taxes are collected, a sum sufficient, not exceeding five mills on the dollar of the assessed valuation of said districts, to pay the interest upon such bonded indebtedness; and after five years in like manner a further tax of two mills upon the dollar for a sinking fund, to be used in payment of such bonds when they become due, and for no other purpose, except that whenever there may be sufficient funds on hand belonging to such sinking fund, the school board may, in their discretion, purchase any of its outstanding bonds at their market value and pay for the same out of the sinking fund, and in no case shall such district or districts levy any part of the one per cent. allowed by law to be assessed for building school houses.

§ 6. WHO MAY SELL BONDS, AND AT WHAT PRICE.] Whenever any bonds shall be issued under the provisions of this act the school board shall have authority to negotiate and sell such bonds for not less than ninety per cent. of their par value, and the proceeds of such sale shall be paid to the school district treasurer or the treasurer of the school board, and shall be used for the purpose only of building and furnishing a school house, and in payment for a site for the same.

§ 7. PAYMENT AND CANCELLATION OF BONDS.] Whenever the bonds of any school district shall have been purchased by the school board they shall be cancelled by writing or printing in red ink the words. "Cancelled and paid," across each bond and coupon, and the date of payment and amount paid shall be entered in the clerk's or secretary's register against the proper number of the bond, and the bonds so cancelled shall be filed in the office of the district treasurer until all the outstanding bonds are paid, when they shall be destroyed in the presence of the full board.

§ 8. ADVERTISING FOR PROPOSALS FOR BUILDING SCHOOL HOUSE.] Whenever any school house is built with funds provided in the manner hereby authorized, the school board shall advertise at least thirty days in some newspaper printed in the county or by posting notices as provided for calling school district meetings, if no newspaper is printed in such county, for sealed proposals for building and furnishing such school house in accordance with plans and specifications which shall be furnished by the school board, reserving the right to reject any and all bids; and if any of the proposals shall be reasonable and satisfactory, said board shall award the contract to the lowest responsible bidder, and shall require of such contractor a bond in double the amount of the contract, conditioned that he will properly account for all money and property of the district that may come into his hands, and that he will perform the conditions of his contract in a faithful manner and in accordance with its provisions; and in case all the proposals shall be rejected, said board shall advertise anew in the same manner as before and until a reasonable bid shall be submitted.

§ 9. THIS ACT APPLIES TO DISTRICTS THAT HAVE HERETOFORE CONSTRUCTED BUILDINGS.] The provisions of this act shall be applicable to and authorize the issue of bonds by such school districts as have already built school houses and issued orders or warrants therefor, and any such district may vote to bond the indebtedness incurred by reason of building and furnishing a school house and purchasing site for the same, and bonds may be issued in the same manner as herein provided for building and furnishing school houses.

§ [10.] 11. PENALTY FOR VIOLATING PROVISIONS OF THIS LAW.] Any violation of the provisions of this act shall be deemed a misdemeanor and punishable by a fine not exceeding one hundred dollars, and any conversion or misappropriation of the bonds or money that may be issued or obtained under the provisions of this act shall be deemed a felony and be punished by a fine not exceeding five hundred dollars or by imprisonment in the territorial prison not exceeding two years, or by both such fine and imprisonment, in the discretion of the court before [which] any person is convicted.

Approved, March 3, 1881.

## Civil Code.

### CHAPTER 25.

#### CHATTEL MORTGAGES.

AN ACT to amend section 1748 of the Civil Code of the Territory of Dakota, approved, February 16, 1877.

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

§ 1. WHEN CHATTEL MORTGAGE CEASES TO BE VALID. RENEWAL.] That section 1748 of the Civil Code of the Territory of Dakota be amended so as to read as follows: "§ 1748. FILING VALID THREE YEARS. RENEWAL.]" A mortgage of personal property ceases to be valid as against creditors of the mortgagor, and subsequent purchasers or incumbrancers in good faith, after the expiration of three years from the filing thereof, unless within thirty days next preceding the expiration of such term, a copy of the mortgage and a statement of the amount of existing debt for which the mortgagee or his assignee claims a lien, sworn to and subscribed by him, his agent or attorney, are filed anew in the office of the register of deeds in the county in which the mortgagor then resides, and in like manner the mortgage and statement of debt must be again filed every three years, or it ceases to be valid as against the parties above mentioned.

§ 2. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. That this act shall be in force and effect from and after its passage and approval.

Approved, February 11, 1881.

## CHAPTER 26.

## CORPORATIONS—INSURANCE.

AN ACT to amend section 501 of the Civil Code, and to authorize Insurance Corporations to Invest Funds and accumulations in Real Estate in this Territory.

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

§ 1. PROHIBITED FROM PURCHASING REAL PROPERTY, EXCEPT WHEN TAKEN AS SECURITY.] Section 501, chapter 3, article 11, of the Civil Code, is hereby amended so as to read as follows: "§ 501. It is declared unlawful for any insurance corporation, whether incorporated under the laws of this Territory or of any other State or Territory, to purchase or hold any real property, save what shall be necessary for the transaction of its legitimate business of insurance; and deeds and conveyances to said corporation for any other purpose are hereby declared to be void: *Provided, however,* That it shall be lawful for any insurance corporation to take mortgages or other securities on real property for money loaned, and to foreclose and purchase the same at the sale thereof, to receive the certificates of sale and deeds therefor as is by law provided in the case of individual mortgagees, their assigns or legal representatives, and such mortgages, securities, certificates and deeds which heretofore have or hereafter may be executed are hereby declared to be good and valid."

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

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

Approved, February 21, 1881.

## CHAPTER 27.

## CORPORATIONS—RAILROADS.

AN ACT to amend Section Four Hundred and Fifty-two of the Civil Code.

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

§ 1. PROCEEDINGS TO SETTLE VALUE OF REAL PROPERTY.] That section four hundred and fifty-two of the Civil Code be and the same is hereby amended by adding at the end of the second proviso of said section the following:

Or either party may within thirty days after the filing of such report, file with the clerk a written demand for a trial by a jury; in which case the amount of damages shall be assessed by a jury, and the trial shall be conducted and judgment entered on the verdict in the same manner as civil actions in the district court. If the party demanding such trial does not recover a verdict more favorable to him than the assessment of the commissioners, he shall not recover costs in the district court; and all the costs in the district court may be taxed against him.

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

Approved, March 2nd, 1881.

## CHAPTER 28.

## CORPORATIONS—RELIGIOUS BODIES.

AN ACT to amend Section 542 of the Civil Code.

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

§ 1. MAY DISPOSE OF THEIR PROPERTY.] That Section 542 of the Civil Code is hereby amended to read as follows: § 542. Corporations of the character mentioned in this article may sell, exchange or mortgage any or all property held or owned by them in the manner determined by such corporations.

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

Approved, March 5th, 1881.

## CHAPTER 29.

## DIVORCE.

AN ACT amending Section Sixty-five of the Civil Code.

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

§ 1. UNREASONABLE LAPSE OF TIME DEFINED.] That Section sixty-five of the Civil Code of this Territory be and the same is hereby amended so as to read as follows: § 65. A divorce must be denied when there is an unreasonable lapse of time before the commencement of the action. Unreasonable lapse of time is such a delay in commencing the action as establishes the presumption that there has been connivance, collusion or condonation of the offense, or full acquiescence in the same, with intent to continue the marriage relation notwithstanding the commission of the offense set up as a ground of divorce. The presumption, arising from lapse of time, may be rebutted by showing reasonable grounds for the delay in commencing the action.

§ 2. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

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

Approved, March 1st, 1881.

## CHAPTER 30.

## PARTNERSHIPS.

AN ACT to amend Section One Thousand Four Hundred and Forty-five of Article Seven, Chapter Two, of Title Ten, of the Civil Code.

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

§ 1. CERTIFICATE TO BE SIGNED AND ACKNOWLEDGED. WHEN ACTION CAN NOT BE MAINTAINED.] That section one thousand four hundred and forty-five of the Civil Code be and the same is hereby amended to read as follows: § 1445. The certificate filed with the clerk of the district court, provided in section 1443, must be signed by the partners and acknowledged before some officer authorized to [take] acknowledgments of conveyances of real property. Persons doing business as partners, contrary to the provisions of this article, shall not maintain any action on or on account of any contracts made or transactions had in their partnership name in any court of [this] Territory, until they have first filed the certificate and made the publication herein required; *Provided, however:* That if such partners shall at any time comply with the provisions of this article, then such partnership shall have the right to maintain an action in all such partnership contracts and transactions entered into prior as well as after such compliance with this article, and the disabilities heretofore imposed on partnerships by said article, for a failure to comply therewith, are hereby removed and made to conform to this section.

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

Approved, February 21st, 1881.

## CHAPTER 31.

## USURY.

AN ACT to amend Section 1098, of Chapter 3, Title 4, in Part 4, of Division Third, of the Civil Code, entitled, "Loan of Money," and to repeal Section 1100, of the same Chapter in certain Counties.

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

§ 1. CERTAIN COUNTIES EXCEPTED FROM USURY LAW.] Section 1098, of chapter 3, title 4, in part 4, of division third, of the Civil Code, entitled, "Loan of Money," is hereby amended by adding to paragraph one thereof. the following:

Except in the counties of Lawrence, Pennington, Custer, Mandan and Forsythe, wherein it shall be lawful to take, receive, retain and contract for any rate agreed on between the parties.

§ 2. Section 1100 of the same chapter is hereby repealed in the counties of Lawrence, Pennington, Custer, Mandan and Forsythe.

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

Received at Executive Office, February 12th, 1881, at 5:50 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.*

## Civil Procedure.

### CHAPTER 32.

#### ATTACHMENTS.

AN ACT to amend Sub-division Two of Section One Hundred and Ninety-nine, (199) and Section Two Hundred and Eighteen, (218) of the Code of Civil Procedure.

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

§ 1. AFFIDAVIT—REQUISITES OF.] That sub-division two, of section 199, of the Code of Civil Procedure be and the same is hereby amended by adding thereto, after the word “or,” in the last line of said sub-division, the words, “that the debt was incurred from property obtained under false pretences, or.”

§ 2. WHEN ACTION MAY BE BROUGHT BEFORE CLAIM IS DUE.] That section 218 of said code be and the same is hereby amended by adding thereto after the word “or” in the fourth line of said section the words, “when the debt was incurred for property obtained under false pretences or.”

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

Approved, February 25th, 1881.

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### CHAPTER 33.

#### EXCEPTIONS AND NEW TRIALS.

AN ACT to amend Sections Two Hundred and Eighty-one, Two Hundred and Eighty-seven, Two Hundred and Eighty-eight, and Two Hundred and Ninety of the Code of Civil Procedure.

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

§ 1. TIME FOR PRESENTING AND SETTLING BILL OF EXCEPTIONS.] That section two hundred and eighty-one of the Code of Civil Procedure be, and the same is, hereby amended to read as

follows: "§ 281. If a bill is not presented at the time of the ruling, a bill containing the exceptions, or any of them, relating to any ruling had up to the time of the entry of judgment, may, upon five days' notice to the adverse party, at any time after such ruling is made, and within thirty days after the entry of judgment, or such other times as may be fixed by the court or judge thereof, be presented to the judge and settled; and such settlement may be made either in term time, or in vacation."

§ 2. APPLICATION FOR NEW TRIAL, HOW MADE.] That section two hundred and eighty-seven of the Code of Civil Procedure be, and the same is, hereby amended to read as follows: "§ 287. When the application is made for a cause mentioned in the first, second, third and fourth subdivisions of the preceding section, it must be made upon affidavits; for any other cause it may be made at the option of the moving party, either upon a bill of exceptions or a statement of the case, or upon the minutes of the court. On such hearing reference may be had in all cases to the pleadings and orders of the court on file; and where the motion is made on the minutes, reference may also be had to any depositions, documentary evidence and stenographic report of the testimony or other papers used upon the trial."

§ 3. TIME FOR SERVING NOTICE OF INTENTION TO MOVE FOR NEW TRIAL.] That section two hundred and eighty-eight of the Code of Civil Procedure be, and the same is, hereby amended to read as follows: "§ 288. The party intending to move for a new trial must, within ten days after the verdict of the jury, if the action was tried by a jury, or after notice of the decision of the court, or referee, if the action was tried without a jury, serve upon the adverse party a notice of his intention to move for a new trial, designating the grounds upon which the motion will be made. The time for serving such notice may be extended by the court or judge thereof, or upon written consent of the parties. Motions for a trial on the ground of newly discovered evidence may be made at the term at which the cause is tried, or at the next succeeding term."

§ 4. WHEN MOTION FOR NEW TRIAL MAY BE HEARD AT CHAMBERS.] That section two hundred and ninety of the Code of Civil Procedure, be, and the same is, hereby amended to read as fol-

lows: "§ 290. When the action is tried by a district judge in his district out of the county of his residence, the motion for a new trial, if not made and brought to a hearing during the term, may be brought to a hearing before such judge at chambers, or in open court, in the county of his residence, or in any other county."

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

Approved, March 4, 1881.

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## CHAPTER 34.

### EXEMPTIONS.

AN ACT to amend Section Three Hundred and Thirty-two of the Code of Civil Procedure.

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

§ 1. PERSONAL PROPERTY WHEN NOT EXEMPT. PROVISOS.] That section three hundred and thirty-two of the Code of Civil Procedure be, and the same is, hereby amended so as to read as follows: "§ 332. Nothing in this chapter shall be so construed as to exempt any personal property from execution for laborer's or mechanic's wages or physician's bills, except that absolutely exempt: *Provided, however,* That a physician in order to be entitled to the benefits of this act must be a physician who has graduated at some reputable school of medicine, either of the United States or some foreign country, or who can produce a certificate of qualification from some State or Territorial medical society, or who has been continuously engaged in the practice of medicine for a period of ten years or more: *Provided,* That in case of physician's bills there shall also be exempt household and kitchen furniture including stoves, of the debtor to an amount in value not exceeding four hundred dollars, and also two cows: *Provided, however,* That this shall not apply to physician's bills contracted before the

passage of this act: *And further provided*, That the collection of physician's bills shall not be enforced by legal process in less than six (6) months from the accruing thereof, except when the debtor is about to remove from the Territory."

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

Received at Executive Office, February 19, at 4:30 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.*

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**CHAPTER 35.**

**PLACE OF TRIAL OF CIVIL ACTIONS.**

AN ACT to amend Section Ninety-four of the Code of Civil Procedure.

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

§ 1. WHEN ACTION TO BE TRIED IN CERTAIN CASES.] That section ninety-four of the Code of Civil Procedure be, and the same is, hereby amended to read as follows: "§ 94. That in all other cases the action shall be tried in the judicial subdivision in which the defendant or defendants or any of them shall reside or may be served, at the commencement of the action; or if none of the defendants shall reside in the Territory, the same may be tried in any county which the plaintiff shall designate in his complaint, subject however to the power of the court to change the place of trial in the cases provided by statute."

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

Approved, March 5, 1881.

## CHAPTER 36.

## POWERS OF DISTRICT COURT.

AN ACT to amend Sections Thirty-one and Two Hundred and Thirty-seven of the Code of Civil Procedure.

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

§ 1. DISTRICT COURT ALWAYS OPEN FOR CERTAIN PURPOSES.] That section thirty-one of the Code of Civil Procedure be, and the same is, hereby amended by adding at the end thereof the following: “§ 31. And the judge may hear and determine the same, and make an order in vacation at any place within his district.”

§ 2. WHAT ISSUES MAY BE TRIED IN VACATION.] That section two hundred and thirty-seven of the Code of Civil Procedure be, and the same is, hereby amended by adding at the end thereof the following: “§ 237. But the judge may try issues of law or fact, or both, in vacation, at any place within his district, upon the written consent of the parties, signed by them or their attorneys.”

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

Approved, March 3, 1881.

## CHAPTER 37.

## SERVICE OF SUMMONS.

AN ACT to amend Section One Hundred and Two of the Code of Civil Procedure.

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

§ 1. MANNER OF SERVING SUMMONS.] That section one hundred and two of the Code of Civil Procedure be, and the same is, hereby amended to read as follows: “§ 102. The summons shall be served by delivering a copy thereof as follows:

“1. If the action be against a private corporation, to the

president or other head of the corporation, secretary, cashier, treasurer, a director, or managing agent thereof; but such service can be made in respect to a foreign corporation only when it has property in this Territory, or the cause of action arose therein, or when such service shall be made within this Territory personally upon the president, treasurer, secretary, or duly authorized agent thereof.

"2. In an action against a railroad corporation, in addition to the service provided in subdivision one of this section, to any acting ticket, station, or freight agent of such railroad company in the county or subdivision where the action or proceeding is commenced.

"3. If the action be against a public corporation within this Territory, to the mayor or any of the aldermen of any city, to any of the commissioners of a county, to the president or any of the trustees of any incorporated town, to any of the supervisors of an organized township, to any of the members of a school district board.

"4. If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, or guardian; or if there be none within the Territory, then to any person having the care and control of such minor, or with whom he shall reside, or in whose service he shall be employed.

"5. If against a person judicially declared to be of unsound mind, or incapable of conducting his own affairs in consequence of habitual drunkenness, and for whom a guardian has been appointed, to such guardian and to the defendant personally.

"6. In all other cases to the defendant personally; and if the defendant cannot conveniently be found, by leaving a copy thereof at his dwelling house in the presence of one or more of the members of his family, over the age of fourteen years; or if the defendant reside in the family of another, with one of the members of the family in which he resides, over the age of fourteen years. Service made in any of the modes provided in this section shall be taken and held to be personal service; and all writs, process, or orders issued by any of the courts of this Territory, or by the judges thereof, in any action or proceeding, shall be served in the manner,

and upon the persons or officers mentioned in this section, and none other, except in cases where service of papers can be made upon an attorney after appearance, as provided by the code of civil procedure."

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

Approved, February 21, 1881.

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## Costs in Criminal Proceedings.

### CHAPTER 38.

AN ACT to Provide for the Taxation and Collection of Costs in certain Criminal Proceedings.

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

§ 1. COURT SHALL TAX COSTS.] In all cases of security to keep the peace under chapter three of the Code of Criminal Procedure, the court in addition to the orders mentioned in said chapter shall tax the costs against the complainant or defendant, or both, as justice may require, and enter judgment therefor, which may be enforced as judgments for costs in criminal cases, and execution may issue therefor.

§ 2. WHEN COURT SHALL TAX COSTS AGAINST COMPLAINANT.] If the defendant on a preliminary examination for a public offense be discharged as provided in section one hundred and forty-seven of the Code of Criminal Procedure; and if the magistrate find that the prosecution was malicious or without probable cause, he shall enter such judgment on his docket and tax the costs against the complaining witness, which shall be enforced as judgments for costs in criminal cases, and execution may issue therefor.

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

Approved, February 14, 1881.

## Counties—Boundaries of.

### CHAPTER 39.

#### USTER AND FORSYTHE.

AN ACT to Combine and Consolidate the Counties of Custer and Forsythe.

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

§ 1. CUSTER TO INCLUDE FORSYTHE.] All that district of country heretofore known and defined as the counties of Custer and Forsythe shall be and the same is hereby made, constituted and declared, the county of Custer.

§ 2. PROCESS TO RUN IN NAME OF CUSTER. FORSYTHE NOT LIABLE FOR INDEBTEDNESS.] Immediately upon the taking effect of this act, all process and business of every kind within said district of country shall run in the name of and be transacted in the corporate name of Custer county: *Provided*, That the district of country heretofore known as the county of Forsythe shall not be liable to the county of Custer for any part of the indebtedness of the present county of Custer, which has been or may be contracted and outstanding at and before the date of the passage and approval of this act.

§ 3. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 4. This act shall take effect and be in force from and after the date of its passage and approval.

Received at Executive Office, February 16, at 5:30 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 House 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 40.

## DICKY.

AN ACT Creating the County of Dickey and Defining its Boundaries.

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

§ 1. BOUNDARIES.] All that district of country included within the following boundary lines shall be and the same is hereby constituted and declared the county of Dickey, viz.: Beginning at the southeast corner of township one hundred and twenty-nine (129), north of range fifty-nine (59) west; thence north along the line between ranges fifty-eight (58) and fifty-nine (59) to the eighth (8th) standard parallel; thence west along the eighth (8th) standard parallel to the northwest corner of township one hundred and thirty-two (132), north range sixty-six (66) west; thence south along the line between ranges sixty-six (66) and sixty-seven (67) west, to the seventh (7th) standard parallel; thence east along the seventh standard parallel to the place of beginning; and the jurisdiction of said county of Dickey shall, upon the taking effect of this act, extend over all the district embraced in the above boundaries.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, March 5, 1881.

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CHAPTER 41.

## GRIGGS.

AN ACT to Create the County of Griggs and Define the Boundaries thereof.

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

§ 1. BOUNDARIES] That all that district of country included within the following boundary lines, to-wit: Beginning at the extreme northeast corner of township 148 north,

range 56 west, where the township line between townships 148 and 149 intersect the range line between ranges 55 and 56; thence west between townships 148 and 149 to the northwest corner of township No. 148, north of range 61 west; thence south between ranges 61 and 62 west, to the southwest corner of township 144 north, range 61 west; thence east on township line between townships 143 and 144 north, to the southeast corner of township No. 144, range 56; thence north between ranges 55 and 56 to the point of beginning, shall be and the same is hereby declared to be and is constituted the county of Griggs.

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

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

TERRITORY OF DAKOTA, }  
Yankton, February 17, 1881. }

This act being entitled "An act to create the county of Griggs and define the boundaries thereof," originated in the House of Representatives of this Territory; passed the House, February 7, 1881, and was transmitted to the Council and passed that body February 9, 1881; was presented to the Governor of this Territory on the 12th day of February, 1881, and returned without his approval, February 16, 1881, and accompanied by his objections, which were entered at length upon the journal, and the communication made the special order for February 17, 1881, at 2 o'clock P. M. At 2 o'clock P. M., the 18th of February, 1881, the House resumed consideration of the special message, the question being, "Shall the bill pass, notwithstanding the objections of the Governor?" and the bill was passed, the necessary two-thirds of all members voting in the affirmative. And to these facts of the action of the House, I hereby certify of my own knowledge.

Attest:

FRANK J. MEAD,  
*Chief Clerk of the House.*

J. A. HARDING,  
*Speaker of the House.*

COUNCIL CHAMBER, }  
Yankton, D. T., February 18, 1881. }

I hereby certify that on this 18th day of February, 1881, the foregoing bill, together with the objections of the Governor, was received from the House by the Council; and the Council thereupon proceeded to reconsider said bill, and the question being put, "Shall the bill pass, the objections of the Governor to the contrary notwithstanding?" it was decided in the affirmative, two-thirds of the Council voting to pass the bill, and then it was approved by the Council.

Attest:

E. B. DAWSON,  
*Chief Clerk.*

Approved,  
GEO. H. WALSH,  
*President.*

## CHAPTER 42.

## HANSON, DAVISON AND AURORA.

AN ACT Concerning the Boundaries of Hanson, Davison and other Counties,  
Dakota Territory.

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

§ 1. BOUNDARIES OF HANSON AND DAVISON.] That the boundaries of Hanson County shall be as follows: All that district of country lying within the following boundaries, to-wit: Beginning at the southeast corner of township 101, range 57, and running thence north along the range line to the northeast corner of town 104, range 57; thence west along the township line to the northwest corner of township 104, range 59; thence south on said range line to the southwest corner of township 101, range 59; thence east to the place of beginning. And that Davison County shall include all that district of country within the following boundaries, to wit: Beginning at the southeast corner of township 101, range 60; and running thence north on said range line to the northeast corner of township 104, range 60; thence west along the township line to the northwest corner of township 104, range 62; thence south on the range line to the southwest corner of township 101, range 62; thence east to the place of beginning.

§ 2. BOUNDARIES OF HANSON COUNTY.] That the boundaries of Hanson County shall be as follows, except as hereinafter provided, to-wit: Beginning at the southeast corner of township 101, range 57; and running thence north to the northeast corner of township 104, range 57; and thence west on the township line to the northwest corner of township 104, range 61; thence south on the range line, to the southwest corner of township 101, range 61; thence east to the place of beginning.

§ 3. ELECTION TO DECIDE THE QUESTION OF BOUNDARIES.] That the boundaries of the foregoing counties, as set forth in section one and section two of this act, shall be submitted to the legal voters of the counties aforesaid, at a special election of the said counties, to be held on the second Tuesday in October, 1881, notice having been given by the officers of each county as is now required by law in the case of general elections,

and in addition thereto shall be published in the newspapers of each county for four weeks successively within forty days prior to the day of election. The said election, where not otherwise expressly provided, shall be governed in all things in the same manner as required by law in general elections. The ballots used at said election shall be as near as may be in one of the following forms, to-wit: "For the adoption of a division of counties as set forth in Section one of an act concerning the boundaries of Hanson and Davison Counties, passed at the fourteenth session, Legislative Assembly of Dakota," or "For the adoption of consolidation of counties as set forth in Section two of an act concerning the boundaries of Hanson and Davison counties, passed at the 14th session, Legislative Assembly of Dakota."

§ 4. IF MAJORITY OF VOTES FAVOR BOUNDARIES DEFINED BY SECTION 1, PRESENT ORGANIZATION REMAINS.] If upon the canvassing the votes, there shall be a majority of the votes cast at such special election in favor of the division and boundaries as set forth in Section one of this act, then the organizations of Hanson and Davison counties shall be as now organized and the jurisdiction of each shall extend respectively over the territory as described in Section one of this act as belonging to each county respectively, and any vacancies occurring in the offices, to be filled as now provided by law.

§ 5. IF MAJORITY FAVOR BOUNDARIES DEFINED BY SECTION 2, CONSOLIDATION SHALL TAKE PLACE.] If upon the canvass of the votes, there shall be a majority of the votes cast at said special election, in favor of adopting the consolidation as set forth in Section two of this act, then all that district of country as bounded and described in Section two of this act shall be the county of Hanson, and the jurisdiction of Hanson County shall extend over all the district embraced in the boundaries set forth in Section two, and all the officers of Davison County shall, immediately upon the day this act takes effect, deliver to the like corresponding officers of Hanson County, respectively, all the books, records, money and other property in their hands as such officers and belonging to Davison county, the same as required by section 14, of chapter 5, of the Political Code, to be delivered to their regular successors in office; they shall take the same to the county seat of Han-

son county and deliver the same as aforesaid, and shall be paid by the county of Hanson therefor their actual expenses and three dollars per day for the time actually employed therein.

§ 6. IF CONSOLIDATED CERTAIN OFFICES BECOME VACANT.] It is further provided that in case of consolidation of the counties of Hanson and Davison, as provided in this act, that the county offices of the said county of Davison shall become vacant as soon thereafter as the result of said election is officially announced, as hereinafter set forth, and the county officers of said county of Hanson shall become vacant when their successors are elected and qualified, which shall be at the first general election after said special election.

§ 7. IF CONSOLIDATED, LEGAL PROCESS, DEBTS, LIABILITIES, ETC.] It is further provided that in case of consolidation, as set forth in Section two of this act, all process and business of every kind within said district of country described in Section two of this act, shall run in the name of and be transacted in the corporate name of Hanson county, and the county of Hanson shall collect, receive and enforce payment to it of all debts, dues, taxes and obligations of every kind then due, or owing to the county of Davison, the same to all intents and purposes as if from the first due to Hanson county; and said Hanson county shall pay all debts, dues and obligations then due from the said county of Davison as fully as if payable by it from the first.

§ 8. CANVASS OF VOTES, RETURNS, ETC.] That the votes cast by the legal voters of said counties shall be canvassed by the board of commissioners and county clerk of each of said counties at their county seats, within ten days after the said election; and they shall certify to the whole number of ballots as cast at said election, as shown by the certificates of the judges of election returned to them; also the number of ballots cast for the adoption of the division of counties, as set forth in section one of this act; and also the number of ballots cast for the consolidation of the counties, as set forth in section two of this act; and such certificate shall be entered at length in the records of the board of commissioners, and an abstract of the same, duly certified by the county clerks, under the seals of their respective counties, and forward the

same within five days thereafter to the secretary of the Territory, who shall certify to the aggregate number of votes cast, and also which proposition has received a majority of all the votes cast, as shown by the abstract of each county, which certificate shall be forwarded by the secretary to the county clerk of each of said counties, and by them entered at length in the records of the board of county commissioners, and published for four weeks successively in the official newspapers of each of said counties; and the fees of the secretary for the performance of his duties under this act, shall be paid by the said counties respectively.

§ 9. NEITHER COUNTY SHALL CONSTRUCT PUBLIC BUILDING UNTIL, WHEN.] That it shall be unlawful for the counties of Hanson or Davison to build, construct or erect any court house or any other public building, or contract for the same, until after this act takes effect.

§ 10. COMMISSIONER DISTRICTS IN CASE OF CONSOLIDATION.] It is further provided that in the event of the adoption of the consolidation of the counties, as specified in section two, that the county of Hanson, as specified in said section two, is hereby divided into three equal districts by a north and south line, which shall be the three commissioner districts of said county until changed according to law: the east third of said county shall be district No. 1, and the commissioner elected therein, at the first election, shall hold his office for the term of three years; and the middle third shall be district No. 2, and the commissioner elected therein, at the first election, shall hold his office for the term of two years; and the west third shall be district No. 3, and the commissioner elected therein, at the first election, shall hold his office for the term of one year or until their successors are elected and qualified.

§ 11. DEBTS AND LIABILITIES IF NOT CONSOLIDATED.] If the proposition in section one be adopted by the majority of the votes so cast, then each county shall be liable and pay only its own indebtedness, and neither county shall be liable for or pay the debts of the other; and the territory lying within the boundary of each county shall not be liable or holden for any debts or liabilities of the other county.

§ 12. COUNTY SEAT, IF CONSOLIDATED.] That it is further provided that in the event of the adoption of the consolidation

of the counties as specified in section two, that the county seat of Hanson shall be as now located at Alexandria temporarily, and shall be voted upon as designated for the location of county seats in section six of chapter twenty-one, relating to counties and county officers, in Political Code, which provides for the location of county seat by a majority of all the votes cast at such election, and such election shall be governed as set forth in said section.

§ 13. BOUNDARIES OF AURORA COUNTY.] It is further provided that in the event of the adoption of the consolidation of the counties as specified in section two of this act, that all that district of country lying and being within the following boundaries shall be Aurora county, to-wit: Beginning at the northeast corner of township 108 of range 63; thence running west on the second standard parallel to the northwest corner of township 108 of range 66; thence south between ranges 66 and 67 to the first standard parallel; thence east on said parallel to the northwest corner of township 104 of range 66; thence south between ranges 66 and 67 to the southwest corner of township 101 of range 66; thence east on the base line to the southwest corner of township 101 of range 61; thence north between range 61 and 62 to the northwest corner of township 104 of range 61; thence west on the first standard parallel to the southeast corner of township 105 of range 63; thence north between ranges 62 and 63 to the place of the beginning.

§ 14. RESULT OF SPECIAL ELECTION TO BE PROCLAIMED BY THE SECRETARY OF TERRITORY.] That the proposition of this act adopted at the special election hereinbefore named shall be in force and effect from and after the same is declared by the secretary of this Territory as heretofore named, and the proposition not adopted at said special election shall have no effect.

Approved, March 1, 1881.

## CHAPTER 43.

## HARDING.

AN ACT Creating the County of Harding and Defining the Boundaries of the same.

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

§ 1. BOUNDARIES OF HARDING COUNTY.] All that district of country included within the following boundaries, viz.: The northern boundary line of the county of Mandan, the western boundary line of the Territory of Dakota, the southern boundary line of the county of Billings, and the one hundred and third degree of longitude west from Greenwich, shall be and the same is hereby constituted and declared the county of Harding; and the jurisdiction of said county of Harding shall, upon the taking effect of this act, extend over all the district embraced in the above boundaries.

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

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

Approved, March 5, 1881.

## CHAPTER 44.

## LA MOURE.

AN ACT Defining the Boundaries of the County of La Moure and for other Purposes.

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

§ 1. BOUNDARIES.] All of that district of country included within the following boundary lines shall be and the same is hereby constituted and declared the county of La Moure, viz: Beginning at the southeast corner of township one hundred and thirty-three (133), north of range No. fifty-nine (59) west, and running thence north and along the line between ranges fifty-eight (58) and fifty-nine (59) to the northeast corner of township one hundred and thirty-six (136), north of range No. fifty-nine (59) west; thence west and along the ninth (9th)

standard parallel to the northwest corner of township one hundred and thirty-six (136), north of range No. sixty-four (64) west; thence south and along the line between ranges sixty-four (64) and sixty-five (65) to the southwest corner of township one hundred and thirty-three (133), north of range sixty-four (64); thence east along the eighth (8th) standard parallel to the place of beginning; and the jurisdiction of said county of La Moure shall, upon the taking effect of this act, extend over all the district embraced in the above boundaries.

§ 2. COUNTY SEAT.] The county seat of said La Moure county shall be and is hereby located at Grand Rapids, on sections five and nine (5 and 9), township one hundred and thirty-four (134) North of range sixty-one (61) west: *Provided*, That such location may be changed by vote of the qualified electors of said county, as now provided by law in such cases.

§ 3. GOVERNOR TO APPOINT COMMISSIONERS, ETC.] It shall be the duty of the governor, upon the passage of this act, to select and appoint three commissioners for the said La Moure county. The commissioners so appointed shall be empowered, and it is hereby made their duty, after having been duly qualified, to appoint all the officers of said La Moure county, as provided in the code of the Territory; and the said county commissioners, and the officers so appointed by them, shall each and all hold their several offices and discharge the duties thereof until the general election of 1882, and until their successors are elected and qualified, as provided in the general laws of this Territory.

§ 4. All acts and parts of acts inconsistent with this act are hereby repealed.

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

ENDORSED.—Received at Executive Office, Feb. 21, 1881, at 8 o'clock 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 House 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 45.

## LAWRENCE.

AN ACT to more definitely Define the Boundaries of Lawrence County.

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

§ 1. BOUNDARIES.] That section 3 of chapter 42, Political Code, be, and the same is, hereby amended to read as follows, to-wit: That the county of Lawrence shall be bounded as follows: Commencing at a point on the boundary line dividing the Territory of Dakota and the Territory of Wyoming at the northwest corner of Pennington county; thence east along the northern boundary of Pennington county to its intersection with the channel of the South Fork of the Big Cheyenne river; thence northerly along said South Fork to its confluence with the Belle Fourche or North Fork; thence northeasterly along said North Fork to the point where the said North Fork intersects the boundary line dividing the Territories of Dakota and Wyoming; thence south along said boundary line to the place of beginning.

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

ENDORSED.—Received at Executive Office, February 16, at 1:05 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 House 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 46.

## McCOOK, HANSON AND DAVISON.

AN ACT to Define the Boundaries of McCook and other Counties.

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

§ 1. McCOOK COUNTY BOUNDARIES.] All of that district of country included within the following boundary lines shall be and the same is hereby made, constituted and declared, the county of McCook, viz: Beginning at the southwest corner of the county of Minnehaha, and running thence north and along the west boundary line of said Minnehaha county to the northwest corner of the same; thence west along the first standard parallel to the northwest corner of township number one hundred and four, north of range number fifty-six west; thence south and along the line between ranges number fifty-six and fifty-seven west, to the southwest corner of township number one hundred and one of range number fifty-six west; and thence east and along the southern boundary of township one hundred and one to the place of beginning.

§ 2. HANSON COUNTY BOUNDARIES.] The boundaries of Hanson county, Dakota Territory, shall be as follows, to-wit: Beginning at the southeast corner of township (101) one hundred and one of range (57) fifty-seven, and thence west on the township line to the southwest corner of township 101, range 62; thence north on said range line to the northwest corner of township 102, range 62; thence east on township line to the northeast corner of township 102, range 57; thence south to the place of beginning.

§ 3. DAVISON COUNTY BOUNDARIES ] The boundaries of Davison county, Dakota Territory, shall be as follows, to-wit: Beginning at the southeast corner of township 103, range 57; thence west to the southwest corner of township 103, range 62; thence north to the northwest corner of township 104, range 62; thence east to the northeast corner of township 104, range 57; thence south to the place of beginning.

§ 4. Section one of chapter twelve of the session laws of 1879 is hereby repealed.

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

ENDORSED.—Received at Executive Office, February 21, 1881, at 8 o'clock,  
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 House 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.*

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## CHAPTER 47.

### MINER.

AN ACT Defining the Boundaries of Miner County, Dakota Territory.

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

§ 1. BOUNDARIES.] All that district of country included within the following boundary lines shall be and is hereby made, constituted and declared the county of Miner, viz: Beginning at the southwest corner of the county of Lake, said corner being the intersection of the first standard parallel and the line between ranges number 54 and 55 west, and running thence north and along the said range line between ranges number 54 and 55 west, the same being the west boundary of Lake county, to the point where the said line between ranges 54 and 55 west intersects the second standard parallel, the said point being the northwest corner of Lake county; thence west and along the second standard parallel to the northwest corner of township number 108 north of range number 62 west; thence south and along the line between ranges number 62 and 63 west to the first standard parallel; thence east and along the said first standard parallel to the place of beginning.

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

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

Approved, March 3d, 1881.

## CHAPTER 48.

## MARTIN.

AN ACT Creating the County of Martin and Defining the Boundaries of the same,

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

§ 1. BOUNDARIES.] All that district of country included within the following boundaries, viz: The north line of Delano county; the south line of Stark county; and between the 102nd and 103rd degrees of longitude west from Greenwich, shall be constituted and declared the county of Martin, and the jurisdiction of said county of Martin shall, upon the taking effect of this act, extend over all the district embraced in the above boundaries.

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

Approved, March 5th, 1881.

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CHAPTER 49.

## MERCER.

AN ACT Restoring the Boundaries of Mercer County.

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

§ 1. BOUNDARIES.] That the boundaries of the county of Mercer are hereby fixed and established as follows: Commencing at the channel of the Missouri river where the twelfth guide meridian intersects the said river; thence easterly and southeasterly along the channel of the said Missouri river to where the tenth standard parallel intersects the said Missouri river; thence west upon and along the tenth standard parallel

to the point where the said tenth standard parallel intersects the twelfth guide meridian; thence north along the said twelfth guide meridian to the place of beginning.

§ 2. All acts and parts of acts inconsistent with this act are hereby repealed.

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

ENDORSED.—Received at Executive Office, February 19, at 4:30 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.*

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**CHAPTER 50.**

**MORTON.**

**AN ACT to Establish and Define the Boundaries of Morton County and for other Purposes.**

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

§ 1. BOUNDARIES.] That the boundaries of the county of Morton be and are hereby changed, modified and fixed, as follows: Beginning at the main channel of the Missouri river where the tenth (10th) standard parallel intersects the said channel: thence west on said line to the one hundred and second (102d) meridian west from Greenwich; thence south on said meridian to the south fork of the Cannon Ball river; thence easterly along the channel of the said Cannon Ball river to the point where the said Cannon Ball river forms a junction with the said Missouri river; thence northerly along the main channel of the said Missouri river to the place of beginning.

§ 2. COUNTY SEAT.] The county seat of said Morton county is hereby fixed and located at the town of Mandan, situated on section twenty-seven (27), town one hundred and thirty-nine (139) north, range eighty-one (81) west.

§ 3. APPOINTMENT OF COMMISSIONERS, ETC.] It shall be the duty of the governor, upon the passage of this act, to select and appoint three commissioners for the said Morton county, which said commissioners shall be *bona fide* residents of the county to be so organized. The said commissioners so appointed shall be empowered, and it is hereby made their duty, after having been duly qualified, to appoint all the officers of said Morton county, as provided in the laws of the Territory; and the said county commissioners and the officers so appointed by them shall each and all hold their several offices and discharge the duties thereof until the general election of 1882, and until their successors are elected and qualified as provided in the general laws of this Territory.

§ 4. SHALL NOT BE LIABLE FOR DEBTS OF BURLEIGH COUNTY, ETC.] No portion of said Morton county as above bounded and described shall be held liable for any bonded or floating debt or liability whatsoever incurred by the board of county commissioners of Burleigh county, or by any vote of the people of said Burleigh county; nor shall the said county of Morton be entitled to any of the proceeds of any taxes which shall have been or may be collected in the county east of the Missouri river. But the taxes as assessed west of the Missouri river, in said county, during the year 1880 by the assessor of the said Burleigh county, are hereby legalized, and said taxes ordered paid into the county treasury of Morton county when the organization of said Morton county shall have been fully completed as herein provided for.

§ 5. CERTAIN CLAIMS TO BE AUDITED.] The board of county commissioners of Morton county are hereby empowered to audit and order the payment of such claims against the county of Morton, under its former organization, as may to them seem just and equitable, not exceeding the sum of five hundred dollars (\$500), and also to provide for the transcribing of all such records from the books of the various offices of Burleigh county as may be necessary to make the records of said Morton county complete.

§ 6. All acts and parts of acts inconsistent with this act are hereby repealed.

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

Approved, February 8, 1881.

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## CHAPTER 51.

### WALSH.

AN ACT Creating the County of Walsh, Defining its Boundaries and for other Purposes.

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

§ 1. BOUNDARIES.] That all that district of country included within the following boundary lines, to-wit: Beginning at a point on the west bank of the Red River where the township line between townships 158 and 159 north, intersects the same; thence west between townships 158 and 159 to the northwest corner of township No. 158, north of range 59 west; thence south between ranges 59 and 60 to the southwest corner of township 155, north of range 59 west; thence east on township line between townships 154 and 155 north, to a point where the said township line intersects the west bank of the Red River; thence north along the west bank of the Red River to the point of beginning; shall be and the same is hereby declared to be and is constituted the county of Walsh.

§ 2. ELECTION IN GRAND FORKS AND PEMBINA COUNTIES. CANVASS OF VOTES, ETC.] That for the purpose of carrying out the provisions of section one of this act, it is hereby made the duty of the county clerk of each of the counties of Grand Forks and Pembina, of this Territory, to call a special election within the limits of the boundaries of the new county proposed to be organized, to be held at the several precincts within said counties on the first Monday in May, 1881, and shall cause three notices to be posted in each of said precincts at least twenty days prior to the election, which said

notices shall state where the polls shall be, the day of the week as well as the day of the month, the hour at which the polls shall be opened and closed, and the purpose for which the election is called. The ballots to be used by the electors within the county of Grand Forks shall have printed or written, or partly printed or written, "For division of Grand Forks; no, or yes," as the case may be; and the ballots used by the electors of Pembina county shall have printed or written, or partly printed or written, "For division of Pembina county; no, or yes," as the case may be. The judges of election shall make returns to the county clerk of their respective counties, showing how many votes were cast "For county division, No;" "For county division, Yes." The county commissioners shall, together with the register of deeds of the county, meet at the county seat of their respective counties within twenty days from the day of election to canvass the votes of the several precincts. And the county clerk of each of said counties of Grand Forks and Pembina shall make a certified abstract of the vote of their county, and forward the same to the secretary of the Territory and one to the governor of the Territory; and if the governor and secretary shall find that each of said counties of Grand Forks and Pembina have voted in favor of the division, then it shall be the duty of the governor to issue his proclamation organizing said county and calling a special election within said county for the election of county officers and for the location of the county seat.

§ 3. That all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

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

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TERRITORY OF DAKOTA, }  
Yankton, February 17, 1881. }

This act being entitled "An act creating the county of Walsh, defining its boundaries and for other purposes," originated in the House of Representatives of this Territory; passed the House, February 5, 1881, and was transmitted to the Council and passed that body February 10, 1881; was presented to the Governor of this Territory on the 12th day of February, 1881, and returned without his approval the 16th day of February, 1881, and accompanied by his objections, which were entered at length upon the journal, and the communication made the special order for the 17th of February, 1881, at 2 o'clock.

P. M. At 2 o'clock P. M. the 18th of February, 1881, the House resumed consideration of the special message, the question being, "Shall the bill pass, notwithstanding the objections of the Governor?" and the bill was passed, the necessary two-thirds of all members voting in the affirmative. And to these facts of the action of the House, I hereby certify of my own knowledge.

Attest:

FRANK J. MEAD,  
*Chief Clerk of the House.*

J. A. HARDING,  
*Speaker of the House.*

COUNCIL CHAMBER,  
Yankton, February 18, 1881. }

I hereby certify that on this 18th day of February, 1881, the foregoing bill, together with the objections of the Governor, was received from the House by the Council; and the Council thereupon proceeded to reconsider said bill, and the question being put, "Shall the bill pass, the objections of the Governor to the contrary notwithstanding?" it was decided in the affirmative, two-thirds of the Council voting to pass the bill, and then it was approved by the Council.

Approved,

Attest:

E. B. DAWSON,  
*Chief Clerk.*

GEO. H. WALSH,  
*President.*

## CHAPTER 52.

### WALSH.

AN ACT to amend An Act, entitled "An Act creating the County of Walsh, Defining its Boundaries and for other Purposes."

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

§ 1. BOUNDARIES.] That section one of an act, entitled "An act creating the county of Walsh, defining its boundaries and for other purposes," passed at the session of the Dakota Legislative Assembly of 1881, be, and the same is, hereby amended as follows: "That the eastern boundary line of the county of Walsh shall be the center of the main channel of the Red River of the North, and that the northern and southern boundary lines of the county of Walsh as therein described shall be extended eastward so as to intersect said eastern boundary line, as herein provided.

§ 2. CLERKS OF GRAND FORKS AND PEMBINA TO ISSUE PROCLAMATION IN CERTAIN CASE.] That section two of said act be so amended so as to provide that if the clerk of each of said

counties of Grand Forks and Pembina shall find by the return of the votes of the several precincts or townships within the limits of said county of Walsh, in each of the counties of Grand Forks and Pembina shall be in favor of the division of said counties of Grand Forks and Pembina, then it shall be the duty of each of said register of deeds to issue a proclamation within his respective county, declaring the result of said vote in his county, and also forward to the governor of the Territory, at Yankton, a certificate of such result; and if it appears to the governor that each of said counties of Grand Forks and Pembina have given a majority in favor of said division, then it shall be his duty to organize the said county of Walsh, when petitioned so to do by at least fifty actual residents of said county of Walsh, and organize the same as now provided by law for the organization of new counties.

§ 3. That all parts of said act in conflict with this act are hereby repealed.

§ 4. This act shall take effect and be in full force and effect from and after its passage and approval and adoption by a vote of the people as herein provided.

ENDORSED.—Received at Executive Office, February 25, at 1:30 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 House 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 53.

## WELLS.

AN ACT amending Section 12, Chapter 18, of the Laws of 1872 and 1873, relating to New Counties.

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

§ 1. CHANGE OF NAME.] That section 12, chapter 18, Session Laws, 1872 and 1873, be, and the same is hereby amended, by striking out the word "Gingras," where it occurs in said section and inserting in lieu thereof the word "Wells."

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

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

ENDORSED.—Received at Executive Office, February 23, at 9 A. 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.*

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Counties.—Judgments Against.

## CHAPTER 54.

AN ACT to amend Section Fourteen of Chapter Twenty-one of the Political Code.

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

§ 1. POWER OF COMMISSIONERS TO ASSESS TAX.] That section fourteen, of chapter twenty-one, of the political code, be and

the same is hereby amended to read as follows: § 14. When any judgment is obtained against a county, the board of county commissioners shall have power at any time after the expiration of six months from the rendition thereof, to assess and collect a sufficient amount of revenue, under the provisions of said chapter twenty-one, to pay off and discharge said judgment, in addition to the ordinary expenses of the county. But the property of the county and of persons owning property situated or liable to taxation therein, shall in no case be subject to judgment lien or liens, nor to seizure or sale upon execution or other process of any court.

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

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

ENDORSED.—Received at Executive Office, February 11, at 5:35 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.*

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## Coroners.

### CHAPTER 55.

AN ACT to Amend Section Sixty-eight, of Chapter Twenty-one, of the Political Code.

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

§ 1. WHEN TO HOLD INQUEST AND PROCEEDINGS.] That section sixty-eight, of chapter twenty-one, of the Political Code, be and the same is hereby amended so as to read as follows:

§ 68. The coroner shall hold an inquest upon the dead bodies of such persons only as are supposed to have died by unlawful means. When he has notice of the dead body of a person supposed to have died by unlawful means, found or being in his county, he is required to issue his warrant to the sheriff or any constable of his county, requiring him to summon forthwith three electors having the qualifications of jurors of the county to appear before the coroner at a time and place named in the warrant, or when the services of such sheriff or constable can not be conveniently procured then the coroner may summon said electors from the bystanders.

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

Approved, February 14, 1881.

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## Deaf and Dumb.

### CHAPTER 56.

AN ACT to Provide for the Education of the Deaf and Dumb of Dakota Territory.

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

§ 1. TERRITORIAL SCHOOL LOCATED.] That the Deaf and Dumb School now in successful operation at Sioux Falls, be and the same is, hereby declared the Territorial School for the education of the deaf mutes of this Territory.

§ 2. SUPERINTENDENT TO FURNISH AUDITOR REPORT. DUTY OF AUDITOR.] It shall be the duty of the superintendent of the said school to make out and present to the territorial auditor, on the last day of each month of school the number of deaf mutes who are in actual attendance upon said school as pupils, and the auditor shall thereupon draw his warrant upon the treasurer of the Territory at the rate of five dollars per week for each and every pupil, which warrant shall be paid

out of any money in the treasury not otherwise appropriated: *Provided, however:* That the said report shall be certified to by the president and secretary of the said school.

§ 3. CERTAIN LAW MADE PART OF THIS ACT.] That all of Chapter thirteen (13) of the session laws of 1879, approved February 21st, 1879, so far as said chapter relates to deaf and dumb, not in conflict with this act, is hereby made a part of this act, and the same is hereby enacted as a part of this act.

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

Approved, February 23d, 1881.

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## Divorce.

### CHAPTER 57.

AN ACT to Amend Section Sixty of the Civil Code.

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

§ 1. DESERTION, NEGLECT OR INTEMPERANCE FOR ONE YEAR.] That section sixty of the Civil Code be and the same is hereby amended by striking out the word "two," where it occurs in the last line of said section sixty, and inserting in lieu thereof the word "one."

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

Approved, March 1st, 1881.

## Domestic Animals.

### CHAPTER 58.

#### ESTRAY LAW. EXEMPTING CERTAIN COUNTIES.

AN ACT Exempting the Counties of Lawrence, Pennington, Custer, Forsyth and Mandan from the Provisions of Certain Sections of Chapter 34 of the Political Codes of Dakota Territory.

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

§ 1. COUNTIES EXEMPT.] That the Counties of Lawrence, Pennington, Custer, Forsyth and Mandan be and the same are hereby exempted from the provisions of sections three to twenty, both inclusive, of chapter 34 of the Revised Codes of Dakota Territory, entitled, "Domestic Animals," and of all acts amendatory thereof, in so far as to animals bearing recorded brands or marks, and the same are hereby declared to be of no force and effect in said counties, being locally inapplicable.

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

ENDORSED.—Received at Executive Office, February 16th, at 5 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 59.

## HERD LAW. EXEMPTING CERTAIN COUNTIES,

AN ACT Exempting the Counties of Lawrence, Custer, Pennington, Mandan and Forsythe from the Provisions of Chapter 38 of the Code of Civil Procedure.

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

§ 1. COUNTIES EXEMPT.] That the Counties of Lawrence, Pennington, Custer, Mandan and Forsythe be and the same are hereby exempted from the provisions and effects of chapter thirty-eight of the Code of Civil Procedure of Dakota Territory, known as the Herd Law, and of all acts amendatory thereof, and the same are hereby declared to be of no force and effect in said counties, being locally inapplicable.

§ 2. This act shall take effect and be in force from and after October 1st, 1881.

ENDORSED.—Received at Executive Office, February 2d, at 9:50 A. 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 House 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.*

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CHAPTER 60.

## HERDING AND DRIVING.

AN ACT Regulating the Herding and Driving of Stock.

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

§ 1. STOCK GROWER AND DROVER DEFINED.] Every person who shall keep neat cattle, horses, mules, sheep, swine or goats

for their growth or increase within the Territory, shall be deemed a stock grower. Any person who shall drive or bring live stock into or through this Territory shall be deemed a stock drover.

§ 2. PENALTY FOR DRIVING OFF ANOTHER'S STOCK.] That any stock drover or his employee, who shall drive off any neat cattle, horses, asses, swine or sheep belonging to another, intentionally or through neglect, shall on conviction thereof by any court of competent jurisdiction, be fined in any sum not more than one hundred (100) dollars for each and every head of cattle, horses, mules, swine or sheep so driven off.

§ 3. SUFFICIENT DESCRIPTION IN LAW.] In any indictment or complaint under this act the description of any kind or class of live stock shall be deemed sufficient, if described as live stock, and for the purpose of this act, the proof of brand shall be deemed to be *prima facie* evidence of ownership of such stock.

§ 4. CERTAIN ANIMALS PROHIBITED FROM RUNNING AT LARGE. PROVISOR.] That no stallion over the age of eighteen months; nor any Mexican, Texan or Cherokee bull over the age of ten months; nor any Mexican ram over the age of eight months, shall be permitted to run at large in the Territory of Dakota. The owner or person in charge of such animal or animals that are prohibited from running at large by this section, who shall permit such animal or animals to run at large, may be fined for each offense not less than ten (\$10) dollars nor more than fifty (\$50) dollars, and it shall be lawful for any person to castrate or cause to be castrated any such animal found running at large. *Provided:* That if any person shall castrate any stallion, bull or ram and it shall on proper evidence before any competent court, be proved to the satisfaction of said court, that such animal was not of a class of stock prohibited from running at large by this act, said person shall be liable for damages to the amount of the value of said animal so castrated, and the costs of suit. *Provided:* That for the purpose of this act, that any bull possessing not more than one-half ( $\frac{1}{2}$ ) Texan, Mexican or Cherokee blood, shall not be deemed a Texan, Mexican or Cherokee bull, as the case may be, and any ram possessing not more than one-half Mexican blood, shall not be deemed a Mexican ram.

§ 5. CONCERNING DRIVING STOCK AND TRESPASSING.] Any person owning or having charge of any drove of cattle, horses, swine or sheep, numbering one (1) head, or more than that number, in any such drove of cattle, horses, swine or sheep, who shall drive the same into or through any county of Dakota of which the owner is not a resident or land owner, or stock-grower, and when the land in said county is already occupied by settlers on ranches, it shall be the duty of said owner or person in charge of said horses, cattle, swine or sheep to prevent the same from mixing with the cattle, horses, swine or sheep belonging to actual settlers, and also to prevent said drove of cattle from trespassing on such land as may be the property of the actual settler, or may be held by him under a homestead, pre-emption, timber culture or leasehold right and used by him for the grazing of animals, growing hay or timber, or other agricultural purposes, or doing injury to the ditches made for irrigation of crops. If any owner or owners or persons in charge of any such drove of cattle, horses, swine or sheep shall willfully, carelessly or negligently injure any resident within the Territory, by driving said drove of cattle, horses, swine or sheep from the public highways and herding the same on the lands occupied and improved by settlers in possession of the same, it shall constitute a misdemeanor and shall be punished by a fine of not less than five (\$5) dollars and not more than twenty-five (\$25) dollars, at the discretion of the court, and render the owner or owners or persons in charge of the drove of cattle, horses, swine or sheep liable for such damages as may be done to the property of said settler.

§ 6. PENALTY FOR WRONGFUL DRIVING OF STOCK.] When the stock of any person shall be driven off its range within Dakota, against his will, by the owners of any drove and the same shall be found among such drove, every person engaged as drover of said drove shall be liable for damages to the party injured to the amount of the full value of the animal for each head so driven off, together with all costs accruing in the trial of said cause, and said herd of stock shall be liable for the same or a sufficient number to cover all damages and costs.

§ 7. DUTY OF DROVER WHERE STOCK OF RESIDENT MIXES WITH

DROVE.] When the stock of any resident of the Territory of Dakota shall mix with any drove of any animals, it shall be the duty of any drover or drovers or persons in charge of such drove to cut out and separate such stock from said droves, immediately. Every person, either owner or drover or otherwise connected with said drove who shall neglect to comply with the provisions of this section, shall be fined in any sum not exceeding one hundred (\$100) dollars, upon conviction in any court of competent jurisdiction.

§ 8. CONCERNING SKINNING DEAD ANIMALS.] It shall be unlawful for any person, other than the owner or his agent or employee, to skin or remove from the carcass the skin, hide or pelt of any neat cattle, swine or sheep found dead except when such stock is killed by railroad trains, when the employes of such railroads may remove the hides from stock so killed.

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

ENDORSED.—Received at Executive Office, February 11, at 12:30 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 House 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 61.

## MARKS AND BRANDS.

AN ACT relating to the Use of Marks and Brands on Live Stock.

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

§ 1. OWNER MAY ADOPT BRAND.] Any person having cattle, hogs, sheep, horses, mules or asses shall have the right to adopt a brand or mark, for the use of which he shall have the exclusive right in the county in which earmark or brand is recorded.

§ 2. COUNTY CLERK SHALL PROCURE BRAND BOOK.] The county clerk of each county shall as soon as practicable after the passage of this act, procure a suitable book or books in which all marks and brands shall be recorded, and the county clerk shall be allowed a fee of one dollar for recording such brand and mark, to be paid by the party filing the description of brand or mark for record.

§ 3. SAME MARK OR BRAND NOT TO BE RECORDED TO MORE THAN ONE PERSON.] No person shall have or adopt a mark or brand previously recorded to another person of the same county, neither shall the county clerk record the same mark or brand to more than one person.

§ 4. STOCK OWNER SHALL MAKE DESCRIPTION OF BRAND.] Any person desiring to use any brand or earmark shall make and sign a certificate, setting forth a *fac simile* and description of the brand and earmark which he desires to use, and shall file the same for record in the office of the county clerk of said county in which he resides. And any person so desiring may in the manner and with like effect as herein provided, record his brand or marks in any county in this Territory into which his stock is liable to stray: *Provided*, That such mark or brand has not been theretofore recorded in such county by some other person.

§ 5. PROCEEDINGS WHERE BRANDS CONFLICT. COMMITTEE.] The authority of deciding whether a brand or mark offered for record does or does not conflict with any previously recorded brand or mark shall be vested in a committee of three, con-

sisting of the county clerk and two respectable stock owners of the county. The two stock owners shall be appointed by the county commissioners; they shall be men of good judgment and experience in brands, and when practicable shall be chosen from those largely interested in cattle. Vacancies occurring in the membership other than the county clerk shall be filled by the county commissioners. All brands offered for record shall be submitted before acceptance to this committee. The objection of any two shall reject a brand. It shall be the duty of the county clerk to file all brands offered for record pending the examination, which he shall cause to be made as promptly as possible; and if the brand is accepted, the ownership shall date from the date of filing.

§ 6. BRAND COMMITTEE TO BE APPOINTED BY COMMISSIONERS. COUNTY CLERK'S DUTY. PRESENT BRANDS TO BE INSPECTED.] It shall be the duty of the county commissioners immediately after the passage of this act to make the appointment above specified, one of whom shall serve till the first day of January following, another until the first day of January the next succeeding year, the county commissioners appointing a member to serve for two years at their first meeting in the month of January in each year. After this shall have been done, the county clerk shall at once call together the committee; they shall examine the present record of brands, and in any case where in the judgment of two of them a brand is found which conflicts with one previously recorded, or which might in its use endanger the property of the party owning the brand earliest of record, it shall be the duty of the county clerk to notify the party owning said brand last of record that the further use of the same will be illegal to the same extent as though it had never been recorded, unless previously agreed upon by owners of such brands, and a joint statement be presented to the recorder of brands by such brand owners. The said notice shall be given by letter when possible, and also and in all cases by publication for one month in two newspapers of general circulation in the county, the expense of which shall be paid on a proper voucher by the county commissioners; both forms of notice shall be given immediately after said examination and rejection. It is expressly provided that this enactment shall not in any way affect or

invalidate the ownership of animals which were branded with said brand then registered previous to the examination and rejection, the object of this act being to make illegal and enjoin from the further use of said brand. The date of the last publication shall be considered to be the date of rejection,

§ 7. DUTY OF DROVER WHO DRIVES CATTLE INTO ANY COUNTY FOR GRAZING PURPOSES.] It shall be the duty of any person who, after the passage of this act, brings into any county of this Territory and turns loose for grazing purposes any herd brand or individual animals already branded, to lay before the above committee a statement of the brands of said animals; and if in the judgment of any two of them said brands conflict with any previously recorded in that county, it shall be the duty of the owner or manager of said animals to brand them with a brand that the committee shall consider a full and distinguishing mark from all brands there recorded, but the owner shall be enjoined from any further use of the conflicting brand. A failure to comply with the above shall render the party so failing liable for all damages resulting from such failure which damages may be recovered in a civil suit. It is further provided that this section shall apply to all animals now in any county in this Territory, whose brands are considered by this committee to infringe on previously recorded ones.

§ 8. WHERE BRANDS CONFLICT—DIRECTIONS TO EXAMINING COMMITTEE.] In deciding as to the conflict of brands the committee will reject any one that being the same as one previously recorded has in addition any of the following whether placed across, above, below, at either side or encircling the main brand, viz: a straight bar, a quarter, half or entire circle, a quarter, half or entire diamond, either upright or inverted, the same not constituting a true brand and rendering the owner of the same brand liable to damages by its use, saving only when one or more of these shall be filed by the owner of the first record of the main brand, in which case it may be accepted. The committee shall reject any brand formed by repetition of any letter, number or figure which shall have been previously recorded whether to be placed on the same or on a different part of the animal; the exclusive right of the first record to the letter, number, or figure, and to repetition

of it, being reaffirmed. They shall also reject all brands known as solid brands, and all earmarks which shall remove to exceed one-half of the ear. A variation in the size of a letter, number, or figure, shall not constitute a new brand, and shall be rejected. A combination of letters, numbers, or figures, may be permitted, though the same letters, numbers, or figures, may have been recorded, single or together, if in the judgment of the whole committee said combination is so different from any previous record as to constitute a new brand with no danger of infringement; but in this case the objection of one member shall reject.

§ 9. BRAND TO BE PRIMA FACIE EVIDENCE OF OWNERSHIP. PROVISOR.] In all suits in law or in equity, or in any criminal proceedings, when the title to any stock is involved, the brand on any animal shall be *prima facie* evidence of the ownership of the person whose brand it may be: *Provided*, That such brand has been duly recorded as provided by law. Proof of the right of any person to use such brand shall be made by a copy of the record of the same, certified by the county clerk of that county, or of any county in which the same is recorded, under the hand and seal of office of such clerk.

§ 10. WHEN COUNTY CLERK GUILTY OF MISDEMEANOR. PENALTY.] If any county clerk shall record the same mark or brand to more than one person he shall be deemed guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction, shall be punished by a fine of not exceeding one hundred dollars, which shall go to the county in which such record shall be made.

§ 11. RUNNING BRAND PROHIBITED.] That it shall be unlawful for any person or persons in branding any neat cattle, horses, mules, asses, sheep, or goats, to use what is known among stock growers as a running brand.

§ 12. PENALTY FOR REFUSAL TO OBEY THIS ACT.] Any person or persons who shall violate or fail to obey the provisions of this act, or shall continue the use of any brand or mark after the same has been rejected by said committee, or shall continue to use any brand or mark after the said committee shall have decided that the same conflicts with a previously recorded brand or mark, shall be deemed guilty of a misdemeanor, and upon conviction in any court of competent juris-

diction, shall be punished by a fine of not exceeding one thousand dollars or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

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

Approved, February 11, 1881.

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## CHAPTER 62.

### PROTECTION OF STOCK.

AN ACT for the Protection of Stock in the Territory of Dakota, and to Punish Certain Offenses Concerning the same.

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

§ 1. PENALTY FOR INTERFERING WITH BRANDS ON STOCK.] Any person or persons who shall with intent to defraud, brand or misbrand, mark or mismark any neat cattle, horse, sheep, goat, ass or mule, not his own; any person who shall intentionally brand over a previous brand, or in any manner alter, deface or obliterate a previous brand, or shall cut out or obliterate a previous mark or brand, on any neat cattle, horse, sheep, goat, ass or mule, shall upon conviction in any court of competent jurisdiction, be punished by imprisonment in the Territorial prison not exceeding ten years, or by imprisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars.

§ 2. PENALTY FOR MALICIOUSLY KILLING NEAT CATTLE.] If any person or persons shall willfully and maliciously kill or destroy any neat cattle, horse, mule, ass or sheep of any age or value, the property of another or others, or shall willfully or maliciously injure any such animal or animals, the property of another or others, he or they shall be punished by imprisonment in the Territorial prison not exceeding five years, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding five hundred dollars.

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

Approved, February 14th, 1881.

## CHAPTER 63.

## SHEEP HUSBANDRY.

AN ACT for the Protection and Encouragement of Sheep Husbandry, and Providing a Bounty for Wolf Scalps.

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

§ 1. BOUNTY FOR KILLING WOLVES.] That the county commissioners of each county in this Territory may, in their discretion, offer a bounty not to exceed the sum of two dollars for each and every wolf killed within the limits of their county.

§ 2. CLAIMANT OF BOUNTY TO MAKE AFFIDAVIT AND PRODUCE SCALP.] That before payment of said bounty the applicant therefor must subscribe and make oath before the county clerk of the county in which the wolf was killed, setting forth that the wolf was killed within said county, giving the date thereof and by whom, and that the scalp which is produced is the scalp of such wolf, and that no allowance or bounty has been received or paid for the killing of such wolf: *Provided*, No claim shall be allowed unless the applicant exhibits and furnishes to such county clerk at the time of making such affidavit the scalp of the wolf killed which shall embrace both ears.

§ 3. COUNTY CLERK TO RETAIN AFFIDAVIT. DESTRUCTION OF SCALP.] The county clerk shall retain said affidavit until the next regular meeting of the board of county commissioners, and the board shall audit the claim and order a warrant drawn upon the county treasurer for the bounty in favor of the party killing said wolf; the county clerk is further required to destroy such scalp by burning the same.

§ 4. COMMISSIONERS TO FURNISH BLANKS.] The county commissioners are hereby authorized to furnish all blanks and make all needful regulations for the carrying out of this act.

§ 5. CLERK'S FEE.] The county clerk shall be entitled to a fee of twenty-five cents for each affidavit, to be paid by the county.

§ 6. WHEN LAWFUL TO KILL DOG.] It shall be lawful for any person to kill any dog off of the premises of the owner of such dog found chasing or worrying sheep.

§ 7. OWNER OF DOG LIABLE FOR DAMAGES.] That any person keeping, owning or harboring a dog after receiving notice that such dog is addicted to chasing, worrying or killing sheep, and who refuses or neglects to kill such dog shall be liable for all damages, after receiving such notice, committed by such dog upon any sheep, to the owner of such sheep, and shall not be entitled to any benefit from the laws exempting property from execution, but all property shall be subject to execution on judgment for such damages and costs.

§ 8. That all laws or parts of laws in conflict herewith are hereby repealed.

§ 9. That this act shall be in force and effect from and after its passage and approval by the governor.

Approved, February 14, 1881.

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## Education.

### CHAPTER 64.

#### APPORTIONMENT OF FUNDS.

AN ACT to amend An Act, entitled "An Act to Establish a Public School Law for Dakota Territory," approved, February 22, 1879.

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

§ 1. CITY SCHOOLS ENTITLED TO PROPORTION OF FUNDS. PROVISOR.] That section 71 of an act, entitled "An act to establish a public school law for Dakota Territory," approved, February 22, 1879, be amended so as to read as follows: "§ 71. The public schools of any city, town or village which may be regulated by special law or by the charter of said city, town or village shall be entitled to receive their proportion of the public funds: *Provided*, That the clerk or secretary of the board

of education of such city, town or village shall on or before the first Monday of June in each year make a report to the county superintendent of schools of the county in which such city, town or village is situated, showing the whole number of children between the ages of five (5) and twenty-one (21) years residing within such city, town or village on the last day of March previous to the making of such report; but no further report to said superintendent shall be required."

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

Approved, February 16, 1881.

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## CHAPTER 65.

### COUNTY SUPERINTENDENT.

AN ACT to amend Sections Eight and Twenty-nine of An Act to Establish a Public School Law for Dakota Territory, approved, February 22, 1879.

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

§ 1. FEMALE QUALIFIED FOR COUNTY SUPERINTENDENT.] That section eight of an act to establish a public school law for Dakota Territory, approved, February 22, 1879, be and the same hereby is amended as follows: After the words, "elect a suitable person," "either male or female;" and to be further amended as follows: Wherever the word, "he or his" is used in said section or said act in reference to the county superintendent, "he" shall be followed with the word, "or she;" and "his" with the word, "or her."

§ 2. That all acts or parts of acts conflicting with this is hereby repealed.

§ 3. That this act shall be in force and effect from and after its passage.

Approved, February 25, 1881.

## CHAPTER 66.

## FIXING TIME FOR APPORTIONING FUNDS.

AN ACT to amend § 17 and § 18 of Chapter 14 of the Session Laws of 1879.

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

§ 1. WHEN SCHOOL MONIES TO BE APPORTIONED.] That § 17 of chapter 14 of the session laws of 1879 be amended as follows: Line two (2) of said section after word "January" insert "April," and after word "July" insert "and October;" also strike out of said line word "and" where it now appears in the second line of said section.

§ 2. SAME.] That § 18 of chapter 14 of the session laws of 1879 be amended as follows: Line three (3) of said section after word "January" insert "April," and after word "July" insert "and October;" also strike out of said line word "and" where it now appears in the third line of said section.

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

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

Approved, March 3, 1881.

## CHAPTER 67.

## FOREIGN LANGUAGE.

AN ACT to amend Section 40 of An Act to Establish a Public School Law for Dakota Territory.

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

§ 1. SCHOOL MEETING MAY AUTHORIZE TEACHING OF FOREIGN LANGUAGE.] That section 40 of an act, entitled "An act to establish a public school law for Dakota Territory" be, and the

same is, hereby amended by adding at the end thereof the following: "*Provided, however,* That any annual school district meeting, or any meeting duly called for that purpose, shall have power in addition to the other power thereto granted to authorize by vote that the German or other foreign language be taught for one hour each school day in the public school in and for such district; and such language may be taught therein accordingly, and but one such language can be taught in any such schools, besides the English language, as above provided."

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

Approved, February 21, 1881.

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## CHAPTER 68.

### GERMAN LANGUAGE.

AN ACT to amend Section 40 of An Act to Establish a Public School Law for Dakota Territory.

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

§ 1. SCHOOL MEETING MAY AUTHORIZE TEACHING OF GERMAN.] That section 40 of an act, entitled "An act to establish a public school law for Dakota Territory" be, and the same is, hereby amended by adding at the end thereof the following: "*Provided, however,* That any annual school district meeting duly called for that purpose shall have power in addition to the other power thereto granted to authorize by vote that the German language be taught for one hour each school day in the public school in and for such district, and such language may be taught therein accordingly."

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

Approved, February 12, 1881.

## CHAPTER 69.

## PUPILS MAY ATTEND ANY SCHOOL IN COUNTY.

AN ACT making Provisions for the Schooling of Children living in any Organized District.

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

§ 1. RESIDENT OF DISTRICT MAY DEMAND SCHOOL.] That in any regularly organized school district it shall be lawful for any person living in the same and having children between the ages of five and twenty-one years to demand and require each year in said district as many months school as the funds which may be raised at the rate per cent. allowed by law upon the assessed valuation in said district will permit, not to exceed six months.

§ 2. PUPIL MAY ATTEND ANY SCHOOL IN COUNTY.] In case of failure of any school district to make the provision as set forth in section one of this act, it shall be lawful for the parents of the children living in said district to send the same to any school in the county: *Provided, however,* That if the district so designated shall not be over crowded with its own pupils.

§ 3. FEE FOR NON-RESIDENT PUPILS.] The district so receiving pupils from other districts shall be entitled to receive from the district in which said pupils reside 50 cents per week for each and every pupil so received.

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

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

Approved, February 17, 1881.

## Elections.

### CHAPTER 70.

#### ANNUAL AND GENERAL ELECTIONS DEFINED.

AN ACT to Amend Section 2, Chapter 21, of the Political Code.

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

§ 1. ANNUAL AND GENERAL ELECTIONS.] That section 2, chapter 21, of the Political Code, be and the same hereby is amended by adding at the end thereof the following proviso, to-wit: "*Provided*, That all elections held in the odd numbered years shall be termed *annual* elections, and all elections held in the even numbered years shall for the purpose of distinction be termed *general* elections; and all officers appointed since the last general election, and all officers appointed in the organization of new counties shall hold their respective offices until the next succeeding *general* election unless otherwise especially stated in their commissions."

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

ENDORSED.—Received at Executive Office, February 24, at 7:40 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 House 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 71.

## CANVASS OF VOTE.

AN ACT to Amend Sections Thirty-one and Thirty-three of Chapter Twenty-seven of the Political Code.

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

§ 1. CANVASS BY COUNTY OFFICERS.] That section thirty-one of chapter twenty-seven of the Political Code, entitled elections, be and the same is hereby amended to read as follows: § 31. On the fifteenth day after the close of any election, or as soon as all the returns are received, the county clerk shall take to his assistance a majority of the county commissioners of the county, county treasurer, or the judge of the probate court and one county commissioner, and none of the persons so called shall be candidates for office, unless there is not sufficient of said officers who are not such candidates, shall proceed to open said returns and make abstracts of the votes in the following manner: The abstract of the votes for delegate to congress shall be on one sheet; the abstract of votes for district attorney shall be on one sheet; the abstract of votes for members of the legislative assembly shall be on one sheet; the abstract of votes for county and precinct officers shall be on one sheet; and it shall be the duty of the said county clerk immediately to make out a certificate of election to each of the persons having the highest number of votes for members of the legislative assembly, county and precinct officers respectively, and to deliver said certificate to the person entitled to it on his making application to the county clerk at his office. *Provided:* That when a tie shall exist between two or more persons for the council and house of representatives, the county clerk shall give notice to the sheriff of the county who shall immediately advertise another election, giving at least ten days' notice; and it shall be the duty of the county clerk of each county on the receipt of the returns of any general or special election to make out his certificate stating therein the compensation to which the judges and clerks of election may be entitled for their services and lay the same before the board of county commissioners at

their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury, and immediately after canvassing the returns and making the abstracts of votes, as provided in this section, the county clerk shall make a certified copy of each abstract and forward it to the Secretary of the Territory; and, *provided further*, That if the county clerk is a candidate for office, he shall take no part in the canvass, but shall act as clerk of said board of canvassers, and the two officers called to the assistance of the county clerk to make such canvass, shall call to their assistance one of the officers mentioned in this section who is not a candidate, and if there is none of said officers remaining who is not a candidate, then they shall call to their assistance a justice of the peace, and it shall thereupon be their duty to at once attend and make such canvass, as in said chapter twenty-seven provided.

§ 2. CANVASS BY TERRITORIAL BOARD.] That section thirty-three of said chapter twenty-seven of the Political Code be and the same is hereby amended to read as follows: § 33. And it shall be the duty of the Secretary of the Territory, with the chief justice and governor, or a majority of them, to proceed within fifty days after the election, or as soon as all the returns are received, to canvass the votes cast for delegate to congress, for other territorial officers, and for district attorneys; and the governor shall grant a certificate of election to the person having the highest number of votes, and shall also issue a proclamation declaring the election of such person. A majority of said canvassers shall decide all matters of disagreement, and it is made their duty to disregard all technicalities and misspelling, the use of initial letters, abbreviations of the names of candidates, if it can be ascertained from the returns for whom the votes are intended. In case there shall be no choice by reason of any two or more persons having an equal and the highest number of votes, the governor shall by proclamation order a new election. *Provided*: That if either of the persons mentioned in this section as canvassers be a candidate for delegate to congress, such person shall take no part in the canvass of said votes, and the other two persons shall call to their assistance the United States attorney, auditor or treasurer of the Territory.

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

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

Approved, February 19th, 1881.

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## CHAPTER 72.

### CHARACTER OF BALLOT.

AN ACT Amending Section 12, Chapter 27 of the Political Code, Relating to Manner of Voting and Form of Ballot.

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

§ 1. WHITE PAPER MUST BE USED FOR BALLOTS.] Every elector shall vote by ballot, and each person offering to vote shall deliver his ballot to one of the judges of election in presence of the board. The ballot shall be a white paper ticket, which shall contain written or printed, or partly written and partly printed, the names of the persons for whom the electors intend to vote, and shall designate the office to which each person so named is intended by him to be chosen. But no ballot shall contain a greater number of names of persons designated to any office than there are persons to be chosen at the election to fill each office. That any judge of election who shall receive or allow to be deposited in the ballot box any ticket printed or written on other than white paper, shall forfeit and pay to the county a sum not less than fifty dollars, to be recovered by a civil action in the name of the county commissioners of the county in which such judge of election resides, which money when collected shall be for the support of the common schools in said county.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, March 1, 1881.

## CHAPTER 73.

## DUTIES OF COUNTY CLERK.

AN ACT to amend Section Sixty-four of Chapter Twenty-one of the Political Code.

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

§ 1. DUTIES OF COUNTY CLERK. MAY CALL SPECIAL ELECTION.] That section sixty-four of chapter twenty-one of the Political Code be, and the same is, hereby amended so as to read as follows: "§ 64. The county clerk shall perform all the duties required of him by law relative to the making out and delivering notices of special and general elections, making abstracts of and canvassing the votes cast at any special or general election, issuing certificates of election to members of the Legislative Assembly, county and precinct officers, and forwarding the abstracts of votes cast at general or special elections to the secretary of the territory; and whenever the county commissioners for any cause shall fail or refuse to call special elections, the county clerk shall have authority to provide for and call any special election under any of the statutes of the Territory, in force within his county, upon the petition of a majority of all the legal voters of the county, to be determined by the poll lists of the last general election preceding such call."

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

Approved, March 3, 1881.

## CHAPTER 74.

## DUTIES OF COUNTY OFFICERS.

AN ACT to amend Sections Three, Twenty-nine and Thirty-six of Chapter Twenty-seven of the Political Code.

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

§ 1. JUDGES OF ELECTION TO BE APPOINTED.] That section three of chapter twenty-seven of the Political Code be, and the same

is hereby amended to read as follows: "§3. The several boards of county commissioners shall respectively at least thirty days prior to the general election in each year, appoint three capable and discreet persons possessing the qualifications of electors to act as judges of election at each precinct for the poll of election therein as provided for in this act; and in case of the failure of the said board from any cause to make such appointments as herein provided, then the county clerk shall make such appointments within five days thereafter; and said board whenever it is necessary shall set off and establish election precincts, and the county clerks of the several counties shall make out and deliver to the sheriff, coroner or other person that may be designated by the board of county commissioners of each county, immediately after the appointment of said judges of election, a notice in writing thereof, directed to the judges of election so appointed; and it shall be the duty of such sheriff, coroner or other person appointed as provided in this section, within ten days after receiving such notice, to serve the same upon each of the said judges of election: *Provided*, That this section shall not apply in counties organized under chapter 59 of the session laws of 1879."

§ 2. POLL BOOKS TO BE PRESERVED.] That section twenty-nine of chapter twenty-seven of the Political Code be, and the same is, hereby amended by adding at the end of said section the following: "And said poll books shall be preserved as a public record, and the ballots and ballot boxes shall be carefully kept until such boxes are needed at some subsequent special or general election."

§ 3. DUTY OF CLERKS IN COUNTIES COMPRISING REPRESENTATIVE DISTRICT.] That section thirty-six of said chapter twenty-seven be, and the same is, hereby amended to read as follows: "§ 36. When two or more counties are united in one council or representative district, it shall be the duty of the clerks of the respective counties to attend at the office of the county clerk of the senior county of such district within twenty days after the day of election, and in conjunction with the clerk of the senior county shall compare the votes given in the several counties comprising such council or representative district; and said clerks shall immediately make out a certificate of

election for the person or persons having the highest number of votes in such district, for member or members of the council or house of representatives of the Legislative Assembly, which certificate shall be delivered to the person entitled thereto on his application to the county clerk of the senior county of such district at his office; and any breach of the provisions of this section shall be deemed a misdemeanor, and punishable accordingly."

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

Approved, March 2, 1881.

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## Fees.

### CHAPTER 75.

#### CORONER.

AN ACT to amend Section Eleven of Chapter Thirty-nine of the Political Code.

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

§ 1. FEES OF CORONER.] That section eleven of chapter thirty-nine of the Political Code be, and the same is, hereby amended so as to read as follows: "§ 11. The coroner shall be entitled to charge and receive the following fees:

"For a view of each body and taking and returning an inquest, five dollars.

"For a view of each body and examination without inquest, three dollars.

"For taking information, fifty cents.

"For issuing subpoenas, warrant or order for a jury, fifty cents.

"For qualifying an inquest, fifty cents.

"For administering oath or affirmation to witness, ten cents.

"For each adjournment, fifty cents.

"For taking deposition, drawing and returning inquisition, for each ten words, one cent.

"For each mile traveled to and returning from an examination or inquest, ten cents.

"For physician making post mortem examination of dead body, ten dollars, which fee shall be paid out of the county treasury when they cannot be obtained from the estate of the deceased; but in all cases of murder or manslaughter, out of the goods, chattels, lands and tenements of the slayer, if he hath any, otherwise by the county, with mileage for distance actually traveled to and from the place of securing the dead body.

"For all other services rendered, the same fees as are allowed the sheriff, and mileage."

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

Approved, February 16, 1881.

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## CHAPTER 76.

### REGISTER OF DEEDS.

AN ACT to amend Section Seven of Chapter Thirty-nine of the Political Code.

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

§ 1. FOR RECORDING RECEIVER'S FINAL RECEIPT.] That section seven of chapter thirty-nine of the Political Code be amended by adding thereto the following: "For recording a final receipt from the receiver of any United States land office, fifty cents."

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

Approved, February 16, 1881.

## CHAPTER 77.

## SHERIFF.

AN ACT to amend Section Nine of Chapter Thirty-nine of the Political Code.

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

§ 1. FEE, WHERE PERSON IN WHOSE FAVOR EXECUTION ISSUES, BIDS IN PROPERTY.] That the clause of section nine of Chapter thirty-nine of the Political Code, reading as follows, "In all cases in the district court, when persons in whose favor the execution or order of sale is issued shall bid in the property sold on execution or decree, the sheriff or master making such sale shall receive five dollars as his per cent. on such sale and no more," be amended so as to read as follows: "In all cases in the district court where persons in whose favor the execution or order of sale is issued shall bid in the property sold on execution or decree, the sheriff or master making such sale shall receive the following compensation: If the amount for which the property is bid in shall be one thousand dollars or less, the sum of five dollars, and no more; if the amount for which the property is bid in be more than one thousand dollars, the sum of ten dollars, and no more."

§ 2. PER DIEM FOR ATTENDING COURT.] That the clause of said section nine, reading as follows, "Opening court and attending thereon per day, to be paid by the county, two dollars," be amended so as to read as follows: "Opening court and attending thereon per day, to be paid by the county, four dollars." But this per diem shall not be construed to apply to deputies, and shall not be allowed for attendance on justice or probate courts.

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

Approved, March 3, 1881.

## Fences.

### CHAPTER 78.

#### FENCES IN PENNINGTON, CUSTER, LAWRENCE, MANDAN AND FORSYTHE.

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. DESCRIPTION OF LAWFUL FENCE.] 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 good sound rails or poles of sufficient size, two to the panel, the top rail or pole to be not less than four feet from the surface of the ground, and the bottom rail or pole not more than fifteen inches from the ground, with two wires, not less than the size of telegraph wire, firmly stretched and secured to each post so as to equally divide the space between the rails or poles above provided for: *Provided*, That two rails or polls may be substituted in place of the wires.

*Second*—By placing posts as provided in the first subdivision of this section, but not more than eight feet apart, and nailing or firmly fastening thereto ordinary sound fencing boards, two boards and two wires, the same as provided in said first subdivision to the panel, said boards and wires to be fastened to each post in the same position as provided for rails or poles, and the wires in the first subdivision: *Provided*, That two boards may be substituted in the place of the wires.

§ 2. REPAIRING PARTITION FENCE.] If two or more persons join in the construction of a partition fence, each party shall thereafter keep in good repair his portion of such fence, and

neither party shall abandon his part of such partition fence, or remove the same, or any portion thereof, until after one year's notice to the other party or parties interested therein, of his intention so to do, unless by the consent of all parties interested therein.

§ 3. LIABILITY OF STOCK OWNERS FOR DAMAGE.] Any person or persons owning or having in his or their possession or charge any horses, mules, cattle, or any one of such animals, which shall breach over or under, or breach into any lawful enclosure belonging to any person or persons, other than the owners of such animal or animals, such person or persons owning or having in charge or possession such breaching animal or animals, shall be liable to the party or parties sustaining such injury for all damages he, she or they may have sustained by reason of such breaching as aforesaid, to be recovered in a civil action before any court having jurisdiction thereof.

§ 4. WHO CONSIDERED OWNER OF ENCLOSURE.] Any person or persons occupying or having the charge of an enclosure shall be considered the owner thereof in any action under the provisions of the last section.

§ 5. PARTY DAMAGED TO GIVE NOTICE AND MAKE DEMAND.] The party sustaining the damage shall notify the owner or person having in charge such offending animals of such damage, and the probable amount thereof: *Provided*, He knows to whom such animal or animals belong, and that such owner or keeper resides within the county where the damage was committed; which notice shall be given and demand for payment of said damages shall be made, before any action shall be commenced and maintained for any such damage.

§ 6. MAY RESTRAIN OFFENDING ANIMALS.] The person suffering such damage done by animals as mentioned in section three, may restrain and keep in custody as many of such offending animals as are equal in value to the damage done until the finding of the court, unless before such suit the amount of his claim or expense of keeping such animals be tendered him.

§ 7. RECOVERING DAMAGES, PROOF, ETC.] If upon the trial of any action under the provisions of section three of this act it

shall appear by competent testimony that the plaintiff's enclosure is a lawful fence under the provisions of this act, he shall be allowed to prove the amount of damage sustained, and if he has retained in custody the animals committing such damage, the amount of the expense incurred for keeping such animals, and any judgment rendered for damages, costs and expenses against the defendant shall be a lien upon the animals committing the damage. But if it shall appear upon the trial that the plaintiff's enclosure is not a lawful fence, or that no damage was sustained, judgment shall be rendered against the plaintiff for costs of suit and damages sustained by defendant.

§ 8. CERTAIN FENCE DECLARED LAWFUL.] That the fence known as a "worm fence" or a stone wall, or any fence constructed of any material, shall be a lawful fence: *Provided*, Such worm fence shall be as effective for resisting breaching stock as the fences made in the manner prescribed by section one of this act.

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

ENDORSED.—Received at Executive Office, February 9, at 12:35 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 House 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.*

## Fish.

### CHAPTER 79.

#### PRESERVATION OF FISH.

AN ACT to Protect Fish in the Territory of Dakota.

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

§ 1. CERTAIN METHODS OF CATCHING FISH DECLARED UNLAWFUL.] It shall be unlawful for any person to take, catch, kill or destroy any fish in any manner whatsoever, except by angling with hook and line or spear, in any of the lakes, and all streams, except the Missouri and Red River of the Territory of Dakota, or any inlet or outlet of said lakes between the first day of March and the first day of October in any year.

§ 2. PENALTY.] Any person who shall violate the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten nor more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment, in the discretion of the court.

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

Approved, March 3, 1881.

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## Game.

### CHAPTER 80.

#### DEER.

AN ACT to Protect Deer in the Counties of Union, Clay and Lincoln.

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

§ 1. WHEN UNLAWFUL TO KILL DEER. PROVISIO.] That it shall be unlawful for any person or persons to kill, trap or destroy

by any manner whatever any deer between the first day of January and October of each and every year: *Provided, however,* That this act shall apply only to the counties of Union, Clay and Lincoln.

§ 2. PENALTY.] Any person or persons violating the provisions of section 1 of this act shall be liable to a fine of not less than twenty-five dollars or more than one hundred dollars for each and every offense.

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

Approved, March 3, 1881.

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## CHAPTER 81.

### PRAIRIE FOWL.

AN ACT to amend An Act, entitled "An Act for the Protection of Game," approved, February 16, 1877.

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

§ 1. MAY SELL TO PERSONS WITHIN THE TERRITORY.] That section 4 of an act, entitled "An act for the protection of game," approved, February 16, 1877, be and is hereby amended by adding at the end of said section 4, the following: "*Provided,* That any person or persons or corporation may expose for sale and sell any prairie chicken, grouse, snipe, plover or curlew at any time between the fifteenth day of August and the thirty-first day of December in each and every year to any person or persons for his or their own use, and to be consumed within this Territory."

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

Approved, March 5, 1881.

## CHAPTER 82.

## PRESERVATION OF LARGE GAME.

## AN ACT for the Protection of Large Game.

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

§ 1. CERTAIN PRACTICE DECLARED UNLAWFUL.] That it shall be unlawful for any person or persons to kill and leave lying on the prairies any part or parts of buffalo, elk, deer, antelope or mountain sheep in the Territory of Dakota.

§ 2. PENALTY.] Any person or persons who shall violate any of the provisions set forth in section 1 of this act shall be considered guilty of a misdemeanor, and upon conviction thereof shall be fined the sum of not less than \$25 nor more than \$50 for each and every animal so killed; said fine may be collected in any court of competent jurisdiction within the Territory.

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

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

Approved, March 3, 1881.

## Insane.

### CHAPTER 83.

#### HOSPITAL FOR THE INSANE.

AN ACT to amend Sections 2, 4, 5, 6, 7 and 13 of Chapter Twenty three of the Laws of 1879, to Provide for a Building and for the better Government of the Hospital for the Insane.

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

§ 1. APPOINTMENT OF TRUSTEES.] That section two of chapter twenty-three of the laws of 1879, entitled "An act establishing the Dakota Hospital for the Insane, providing for the government of the same and for the care of the insane, and for the organization of a board of commissioners of insanity in each organized county of this Territory" be, and the same is, hereby amended to read as follows: "§ 1. The governor by and with the consent of the council shall appoint five persons, residents of this Territory, at least three of whom shall be residents of Yankton county, to be called and known as the board of trustees of the Dakota Hospital for the Insane, three of whom shall hold their office for two years and two for four years, and until their successors are appointed and qualified, except to fill vacancies, which shall only extend to the end of the next session of the legislature. In case of any vacancy occasioned by the removal from the Territory by such trustee, or death, resignation or non-acceptance of the office, the governor shall immediately fill such vacancy, and unless the person so appointed shall accept the office within twenty days the governor shall immediately thereafter appoint some other person, and each of said members of the said board shall before entering upon the duties of his office take and subscribe the oath of office required by law, which oath shall be filed with the governor of the Territory."

§ 2. COMPENSATION OF TRUSTEES.] That section four of said act be amended so as to read as follows: "The trustees shall be paid at the rate of three dollars per day for the time nec-

essarily incurred in the discharge of their official duties, and five cents per mile going and returning, necessarily traveled, in the discharge of said duties. Upon the presentation of the proper vouchers, containing an itemized statement of the sum due each trustee for services rendered, and for mileage, duly signed by the president of the board of trustees and countersigned by the secretary of said board, the territorial auditor shall draw his warrant upon the territorial treasurer therefor, to be paid out of the territorial treasury."

§ 3. OFFICERS OF THE BOARD AND DUTIES.] That section five of said act be amended so as to read as follows: "The trustees shall elect a president and secretary from their own number, whose term of office shall be for one year, or until said board shall elect their successors. They shall make a record of their proceedings at all meetings in a book kept for that purpose; and at their annual meetings next preceding the regular sessions of the legislature, they shall make a report to the governor of the condition and wants of the hospital, which shall be accompanied by a full and accurate report of the superintendent, which shall show the annual cost per capita of the inmates and the per cent. of discharges and recoveries, and a detailed account of all moneys received and paid out by the steward, and shall have not less than five hundred copies of said reports printed."

§ 4. FISCAL YEAR AND ANNUAL MEETINGS.] That section six be amended so as to read as follows: "The fiscal year of the hospital shall close on the thirtieth day of November each year, and the annual meetings of the board of trustees shall be on the first Wednesday of December thereafter at the hospital; special meetings for the appointment or removal of resident officers, or for the transaction of general business, may be held in any convenient place, upon the written request of the president or any three members of the board; three members of the board shall constitute a quorum for the transaction of business."

§ 5. TRUSTEES TO APPOINT OFFICERS, ADOPT RULES AND FIX SALARIES.] That section seven of said act be amended so as to read as follows: "The board of trustees shall have the general control and management of the hospital; shall make all by-laws, rules and regulations necessary for the government

of the same, not inconsistent with the laws of the Territory; they shall appoint a superintendent, who shall be a physician of acknowledged skill and ability, a graduate of a reputable regular medical college and of unimpeachable moral character; one or more assistant physicians when they shall deem such appointment necessary, a steward and a matron, all of whom shall be styled the resident officers of the hospital and shall reside therein, and shall be governed by the laws and by-laws established for the same. Said board shall fix from time to time the compensation of the employes of the hospital, and certify the same to the territorial auditor; the salaries of the resident officers of the Dakota Hospital for the Insane shall be per annum as follows: Superintendent, (\$1500) dollars; steward, (\$1200) dollars; matron, (\$500) dollars; and assistant physician, when such officer is appointed, (\$750) dollars. These salaries shall be paid monthly as provided in section 11 of this act."

§ 6. AUTHORITY OF TRUSTEES IN CONSTRUCTING NEW BUILDINGS.] Whenever any additional building is to be erected, or extension, alterations or repairs to be made in connection with the hospital, the board of trustees shall have authority to procure all necessary plans, drawings and specifications for such building, alterations or repairs; to advertise for proposals for the erection and completion thereof, in such manner as may be most advantageous, and to contract with the lowest responsible bidder therefor, such contractor in every case to give adequate security for the faithful performance of his contract; to appoint and discharge a building superintendent, who shall superintend the work and perform such other duties as they may require, and receive such compensation as the board shall determine, and to examine and certify the correctness of the estimates and accounts for work under the contract, and of their superintendent and employes.

§ 7. VISITS AND EXAMINATIONS.] One or more of the trustees shall visit the hospital monthly, and the president of the board, with the superintendent, shall make monthly examinations of the accounts of the steward and certify their approval or otherwise on the same page with his monthly balances.

§ 8. BOND AND DUTIES OF THE SUPERINTENDENT.] The superintendent of the hospital shall before entering upon the duties

of his office, give a bond to the Territory of Dakota in the penal sum of twenty-five hundred dollars, conditioned that he will faithfully and impartially discharge the duties of his office according to law and the by-laws of said hospital, to be approved by said board, and take and subscribe an oath faithfully and diligently to discharge the duties required of him by law and the by-laws of the board of trustees, which bond and oath shall be filed with the treasurer of the Territory; he shall be the chief executive officer of the hospital and have entire control of the medical, moral and dietetic treatment of the patients; he shall exercise entire control over all subordinate officers; he shall employ all employes and assistants necessarily connected with the institution below the grade designated in the by-laws as officers; and may discharge any employe at will and suspend any resident officers of the hospital except steward, being responsible to the board for the proper exercise of that duty in regard to officers.

§ 9. DUTY OF STEWARD.] That section thirteen of said act be amended so as to read as follows: The steward shall keep the accounts, pay those employed in and about the hospital and have a personal superintendence of the farm, garden and grounds, and perform such other duties as are assigned him by the by-laws of said hospital or by the board of trustees.

§ 10. STEWARD SHALL MAKE PURCHASES.] Under the direction of the superintendent the steward shall purchase all supplies, upon the best possible terms and lowest cash value; he shall see that the grounds, buildings and all other property belonging to the hospital are properly preserved and kept in order, and shall perform such other duties as may be required of him by the superintendent and board of trustees.

§ 11. STEWARD TO KEEP ACCOUNTS, RENDER MONTHLY STATEMENTS, ETC.] He shall keep an accurate account, in detail, which shall always be open to the inspection of the superintendent and board of trustees, and these accounts shall be carefully balanced on or before the fifteenth day of each month and closed biennially on the thirtieth day of November, next preceding each regular session of the legislature. There shall be provided and submitted for the inspection of the superintendent and board of trustees on or before the fifteenth day of each month an original and duplicate balance sheet, which balance sheet shall show the balance of appropriations in the

territorial treasury to be applied to the maintenance of the patients or to the general use of the hospital, or from any source whatever; these balance sheets shall also show a detailed statement of all receipts and disbursements during the month, and to what appropriation each belongs, together with the name of each payee and the price paid; there shall be submitted with the balance sheet the original bills of purchase, vouchers for the same and receipts for all other disbursements of whatever kind, which bills of purchase, vouchers and receipts shall have endorsed on the back of each the signatures attached thereto, with the day, month and year of payment. After the original and duplicate balance sheets have been endorsed as correct by the superintendent and president of the board of trustees, the steward shall within five days thereafter file the original balance sheet in the office of the superintendent and the duplicate thereof with the original bills of purchase, vouchers and receipts pertaining thereto, he shall file in the office of the territorial auditor, and upon the presentation of the monthly balance sheet, properly signed and endorsed as correct by the president of the board of trustees, together with the original bills of purchase, vouchers and receipts pertaining thereto, the territorial auditor shall draw his warrant upon the territorial treasurer for the respective amounts therein stated from the appropriations to which they are properly chargeable.

§ 12. ASSISTANT PHYSICIAN.] The assistant physician shall be a graduate of a reputable regular medical college and possess such qualifications as to be able to perform the ordinary duties of the superintendent, during his necessary absence, or disability to act of such superintendent.

§ 13. MATRON.] The matron shall be a person of good moral character and skilled in house keeping, and shall not be the wife of any of the officers, and under the direction of the superintendent and not otherwise; shall have the general supervision of the domestic arrangements of the hospital, and do all she can for the comfort and welfare of the patients.

§ 14. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 15. That this act shall be in force and effect from and after its passage and approval.

Approved, February 28th, 1881.

## Judicial Districts.

### CHAPTER 84.

#### BOUNDARIES OF DISTRICTS.

AN ACT to Define the Boundaries of the Judicial Districts of the Territory of Dakota and to Sub-divide the same, and to fix the Terms of Court therein, and for other Purposes.

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

§ 1. THIRD DISTRICT—COURT WHERE HELD.] That all that portion of the Territory of Dakota, bounded and described as follows, constitutes the Third Judicial District, viz: Commencing at the northeast corner of the Sisseton and Wapeton reservation; thence in a northwesterly direction on the boundary line of said reservation to the northwest corner thereof; thence in a southeasterly direction on the western boundary line of Ransom county; thence west on the south boundary line of the counties of Ransom and LaMoure, Logan and Emmons, to the right bank of the Missouri river at low water mark; thence down said river along the right bank at low water mark to the mouth of Grand river; thence up the center of the main channel of Grand river to a point where said river is intersected by the one hundred and second meridian of longitude west from Greenwich; thence north on said meridian to the forty-sixth parallel of north latitude; thence west on said parallel to the western boundary of the Territory; thence north along the western boundary of the Territory to the northern boundary thereof; thence east along the northern boundary of said Territory to the northeast corner thereof; thence southerly along the eastern boundary to the place of beginning; and the district court in and for said Third Judicial District, exercising the powers and jurisdiction appertaining to the district and circuit courts of the United States, shall be held at the city of Fargo, in the county of Cass, on the first Tuesday of June and December in each year.

§ 2. FIRST DISTRICT COURT—WHERE HELD.] That all that portion of the Territory of Dakota west of the Missouri river,

and south of the south boundary line of the Third Judicial District, except the Fort Randall military reservation and the counties of Todd, Gregory, Lyman, Presho, Pratt, Stanley, Rush and that part of the county of Boreman south of the Grand river, shall constitute the First Judicial District; and the district court in and for said First Judicial District, exercising the powers and jurisdiction appertaining to the district and circuit courts of the United States, shall be held at Deadwood, on the first Tuesday of August and the third Tuesday of January in each year.

§ 3. SECOND DISTRICT COURT—WHERE HELD. PROVISOR.] That all that portion of the Territory of Dakota not embraced in the First and Third Judicial Districts, shall constitute the Second Judicial District, for the exercise of the powers and jurisdiction appertaining to the district and circuit courts of the United States; and the district court in and for said Second Judicial District, exercising such powers and jurisdiction, shall be held at Yankton, in the county of Yankton, on the first Tuesday of April and the second Tuesday of November in each year. *Provided, however:* That in the sub-division of the Second Judicial District, hereinafter provided, no part of the Fourth Judicial District shall be considered a part of said Second Judicial District.

§ 4. FOURTH JUDICIAL DISTRICT.] That the counties of Union, Clay, Lincoln, Turner, Minnehaha, McCook, Moody, Lake, Brookings, Kingsbury, Deuel, Hamlin, Clark, Grant, Codington and Day shall constitute the Fourth Judicial District, created by act of congress, entitled "an act providing for an additional associate justice of the supreme court of the Territory of Dakota," approved, March 3d, 1879.

§ 5. SUBDIVISIONS OF FIRST DISTRICT.] That the First Judicial District is sub-divided as follows:

1. PENNINGTON.] The county of Pennington constitutes one subdivision, and the district court shall be held therein at the county seat of Pennington county on the second Tuesdays of April and November in each year.

2. CUSTER.] The county of Custer constitutes one subdivision, and the district court shall be held therein at the county seat of Custer county on the fourth Tuesdays of April and November in each year.

3. **LAWRENCE, ETC.]** The county of Lawrence and all other portions of said First Judicial District not included in the preceding subdivisions shall constitute one subdivision, and the district court shall be held therein at the county seat of Lawrence county on the first Tuesdays of August and January of each year, and in addition thereto special terms shall be held at said county seat on the first Mondays of March, July, September and December.

§ 6. **SUBDIVISIONS OF SECOND DISTRICT.]** All that portion of the Second Judicial District not included in the Fourth Judicial District thereto attached is subdivided as follows:

1. **YANKTON.]** The county of Yankton constitutes one subdivision, and the district court shall be held therein at the county seat of Yankton county on the first Tuesday of April and the second Tuesday of November in each year; and in addition thereto special terms shall be held at said county seat on the first Mondays of January, March, July and September in each year.

2. **BON HOMME.]** The county of Bon Homme constitutes one subdivision, and the district court shall be held therein at the county seat of Bon Homme county on the second Tuesday of September of each year.

3. **CHARLES MIX AND DOUGLAS.]** The counties of Charles Mix and Douglas shall constitute one subdivision, and the district court shall be held therein at the county seat of the said Charles Mix county at such time or times as the judge of said court shall appoint.

4. **HUTCHINSON.]** The county of Hutchinson shall constitute one subdivision, and one term of the district court shall be held therein each year at the county seat of said county at such time as the judge of said district court shall appoint.

5. **DAVIDSON, HANSON, MINER AND AURORA.]** The counties of Davidson, Hanson, Miner and Aurora constitute one subdivision, and one term of the district court shall be held therein on the second Tuesday of June of each year at the county seat of Hanson county, and such other special terms of district court may be held therein each year at said county seat as the judge of said district shall appoint.

6. **BRULE AND BUFFALO.]** The counties of Brule and Buffalo constitute one subdivision, and the district court shall be held

therein at the county seat of Brule county on such time or times as the judge of said court shall appoint.

7. HUGHES, HYDE, SULLY, ETC.] The counties of Hughes, Hyde, Sully, Potter, Walworth and Campbell constitute one subdivision, and one term of the district court shall be held therein each year at the county seat of Hughes county at such time as the judge of said district court shall appoint.

8. BEADLE, ETC.] The county of Beadle and all other portions of the Second Judicial District not included in any other subdivision shall constitute one subdivision, and the district court shall be held therein at the county seat of Beadle county, and one term of the district court shall be held therein each year at such time as the judge of said district shall appoint.

§ 7. SUBDIVISIONS OF THE THIRD DISTRICT.] That the Third Judicial District is subdivided as follows:

1. PEMBINA, CAVALIER AND ROLETTE.] The counties of Pembina, Cavalier and Rolette constitute one subdivision, and the district court shall be held therein at the county seat of Pembina county on the first Mondays of April and October of each year.

2. GRAND FORKS, RAMSEY, DeSMET AND WALSH.] The counties of Grand Forks, Ramsey, DeSmet and Walsh constitute one subdivision, and the district court shall be held therein at the county seat of Grand Forks county on the second Tuesdays of April and October of each year.

3. TRAILL.] The county of Traill constitutes one subdivision, and the district court shall be held therein at the county seat of Traill county on the third Tuesdays of April and October of each year.

4. CASS.] The county of Cass shall constitute one subdivision, and the district court shall be held therein at the county seat of Cass county on the first Tuesdays of June and December of each year.

5. RICHLAND AND RANSOM.] The counties of Richland and Ransom shall constitute one subdivision, and the district court shall be held therein at the county seat of Richland county on the fourth Tuesday of April of each year.

6. BARNES AND GRIGGS.] The counties of Barnes and Griggs constitute one subdivision, and the district court shall be held

therein at the county seat of Barnes county on the third Tuesday of September of each year.

7. STUTSMAN, LA MOURE, FOSTER, GINGRAS, ETC.] The counties of Stutsman, La Moure, Foster, Gingras, Kidder and Logan shall constitute one subdivision, and the district court shall be held therein at the county seat of Stutsman county on the second Tuesday of May of each year.

8. BURLEIGH, EMMONS AND STEVENS.] The counties of Burleigh, Emmons and Stevens constitute one subdivision, and the district court shall be held therein at the county seat of Burleigh county on the third Tuesday of May and the second Tuesday of November of each year.

9. MORTON, MERCER, STARK AND BILLINGS.] The counties of Morton, Mercer, Stark and Billings shall constitute one subdivision, and the district court shall be held therein at the county seat of Morton county on the fourth Tuesday of May of each year.

§ 8. SUBDIVISIONS OF THE FOURTH DISTRICT.] The Fourth Judicial District with the powers and jurisdiction conferred upon the courts therein by law and by said act of congress, is subdivided as follows:

1. CLAY.] The county of Clay constitutes one subdivision, and the district court shall be held therein on the first Tuesdays in January and August in each year.

2. UNION.] The county of Union constitutes one subdivision, and the district court shall be held therein on the second Tuesdays of January and August in each year.

3. LINCOLN.] The county of Lincoln constitutes one subdivision, and the district court shall be held therein on the fourth Tuesdays of January and August in each year.

4. MINNEHAHA AND MCCOOK.] The counties of Minnehaha and McCook constitute one subdivision, and the district court shall be held therein on the first Tuesday of April and the second Tuesday of November in each year at the county seat of Minnehaha.

5. TURNER.] The county of Turner constitutes one subdivision, and the district court shall be held therein on the fourth Tuesday of March and the fourth Tuesday of September in each year.

6. MOODY.] The county of Moody constitutes one subdivi-

sion, and the district court shall be held therein on the first Tuesday of June in each year.

7. BROOKINGS AND KINGSBURY.] The counties of Brookings and Kingsbury constitute one subdivision, and the district court shall be held therein at the county seat of said county of Brookings on the second Tuesday of June in each year,

8. DEUEL.] The county of Deuel constitutes one subdivision, and the district court shall be held therein at the county seat of the said county of Deuel on the third Tuesday of June in each year.

9. CODINGTON, CLARK AND HAMLIN.] The counties of Codington, Clark and Hamlin constitute one subdivision, and the district court shall be held therein at the county seat of said county of Codington on the fourth Tuesday of June in each year.

10. GRANT AND DAY.] The counties of Grant and Day constitute one subdivision, and the district [court] shall be held at the county seat of Grant county on the first Tuesday of July in each year.

11. LAKE.] The county of Lake constitutes one subdivision and the district court shall be held therein on the fourth Tuesday of May in each year at Madison in said county.

§ 9. IN FIXING VENUE WHAT SHALL BE SUFFICIENT.] In the entitling of a cause and fixing the venue in actions or proceedings in any judicial subdivision as herein created, it shall not be necessary to name all the counties comprising the whole subdivision, but it shall be sufficient to name the county wherein the court is held.

§ 10. CONCERNING ACTIONS NOW PENDING.] All actions or proceedings, civil or criminal, now pending in any of the subdivisions in this Territory which do not properly belong therein under the provisions of the Code of Civil Procedure and Code of Criminal Procedure, by reason of the change in the subdivisions heretofore existing by law, the venue thereof may be changed by order of the court or 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 within the Territory; but if neither can conveniently be found within the Territory, then such change of venue may be made as herein provided upon filing such de-

mand with the clerk of the court in which such action or proceeding is pending: *Provided, however,* That if no such change of venue is made as in this section provided, then all such actions or proceedings shall remain and be tried or be disposed of according to law in the courts of the subdivision where they are now pending.

§ 11. JUDGE AUTHORIZED TO CREATE A NEW SUBDIVISION.] The judge of the district courts respectively have authority at any time by an order to that effect to create a new subdivision out of any subdivision or subdivisions composed of two or more counties and to fix the place of holding courts therein, which place shall be a county seat, and from the time of making such order such counties wherein courts are so appointed shall cease to be a part of the subdivision or subdivisions as herein provided, and shall itself constitute a subdivision, and the district courts shall be therein held at the times provided in such order,

§ 12. CLERK AND SHERIFF WHEN SUBDIVISION MADE UP OF TWO OR MORE COUNTIES.] In subdivisions composed of two or more counties the clerk of district of the county where the court is held shall have authority to issue, and the sheriff thereof shall have authority to execute all proper writ and process in any county or other place embraced within such subdivision the same as if such subdivision were composed of his county only.

§ 13. PAYMENT OF THE EXPENSES OF COURTS IN SUBDIVISIONS MADE UP OF TWO OR MORE COUNTIES.] For the purpose of paying the expenses of holding courts in those subdivisions composed of two or more counties, the county clerks of the organized counties therein shall annually as soon as the assessment roll is received, transmit to the clerk of the court of that county wherein the court is held, a statement of the aggregate amount of the assessment roll of their counties respectively, and at the close of each term of the district court the clerk thereof shall, under the supervision of the judge, calculate the expenses of such term and the proportionate amount to be paid by each organized county according to the proportion which the amount of the assessment roll bears to the aggregate amount of all the assessment rolls in such subdivision, and shall certify to the boards of county commissioners of the

respective counties, amounts for such proportionate amounts and in favor of the persons to whom such expenses shall be due, which accounts shall be audited and allowed and warrants issued accordingly in like manner as other claims against the county.

§ 14. WHEN JUDGE MAY FIX THE AMOUNT.] If any county shall fail to furnish a statement of the amount of its assessment roll, or if no assessment shall be made therein, the judge of the district court may fix the proportionate amount of the expenses of *the* which each county shall pay, and may at any time by mandamus compel the assessment and levy of a tax, or the doing of any other act necessary to carry out the provisions of this chapter.

§ 15. JURISDICTION OF JUSTICES OVER UNORGANIZED COUNTIES. WHEN TERRITORY TO PAY EXPENSES.] The civil and criminal jurisdiction of justices of the peace in organized counties in any judicial subdivision containing one or more unorganized counties, shall extend over all such unorganized county or counties in such subdivision; and all summons, warrants, orders or process issued by such justice of organized counties, shall be served or executed by the sheriff or any constable of the same county, and the costs in all criminal prosecutions in the district and justices courts for offenses heretofore or hereafter charged to have been committed when the same is not collected from the defendant, shall be audited and paid out of the territorial treasury; but no such costs shall be so audited or paid unless a duplicate itemized account of the same shall be certified to as correct by the district attorney of the district, and examined and allowed by the district court, one of which accounts shall be preserved as a public record in the office of the clerk of the district court of the subdivision; and the court shall have full authority to disallow any or all such costs and fees whenever it deems the same illegally or unnecessarily incurred. And the expenses of all criminal prosecutions arising or having arisen in such unorganized counties, including the lawful costs of keeping the prisoners, shall be audited and paid out of the territorial treasury when the same is certified and allowed in the manner prescribed in this section. But no fees, costs or charges shall be certified or allowed unless the same is first duly adjusted; and no fees, costs or

charges shall be so certified, allowed or audited as in this section provided, unless the officer prosecuting the same shall attach to such itemized account an affidavit that the same and every item thereof has been actually, legally and necessarily incurred, and that no part thereof has been paid.

§ 16. ADDITIONAL TERMS OF COURT.] The judges of the district courts respectively shall have power whenever thereunto requested by the board of commissioners of the county wherein terms of court are regularly holden, or upon their own motion without such request by an order to that effect, to appoint and hold additional terms of the district court in any county or subdivision; and such judges shall have power to adjourn courts from time to time as they shall deem expedient for the due administration of justice; and such additional terms shall in all respects be considered the same as the general terms provided in this act. The courts herein appointed shall continue as long as the business therein shall require.

§ 17. ACTS REPEALED.] All acts and parts of acts in conflict with this act are hereby repealed, and all acts and parts of acts fixing the terms of courts in the judicial subdivisions and defining the boundaries thereof are hereby abrogated and annulled.

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

Approved, February 23, 1881.

## Judge's Salary.

### CHAPTER 85.

#### FIRST JUDICIAL DISTRICT.

AN ACT to Provide Extra Compensation to the Judge of the First Judicial District of the Territory of Dakota.

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

§ 1. ADDITIONAL COMPENSATION.] That the judge of the First Judicial District of the Territory of Dakota, as said district is now organized, shall be entitled to and shall be paid an annual additional compensation of two thousand four hundred dollars, as hereinafter provided, commencing from the 1st day of January, A. D. 1881.

§ 2. HOW PAID.] Such additional compensation shall be paid by the organized counties of said judicial district, upon the first days of April, July, October and January of each and every year, in cash out of the general fund in the treasuries of said counties, and said payments shall be made by said counties upon the basis of the assessed valuation of taxable property in said counties, respectively.

§ 3. CERTAIN COUNTIES TO PAY ITS PROPORTION, ETC.] Immediately upon the passage of this act, the county treasurers of the counties of Pennington and Custer, shall certify to the county treasurer of the county of Lawrence a statement of the assessed valuation of the taxable property in each of said counties, respectively, as shown by the last assessment roll of said counties, whereupon the county treasurer of the said county of Lawrence shall add to the same the assessed valuation of the property in said county of Lawrence, as shown by the last assessment roll of said county, and shall determine what amount of the additional compensation herein provided for shall be paid by each of the said counties of said district, upon the basis of the same being divided *pro rata* between said counties, upon the basis which the assessed val-

uation in said counties bears to the total amount to be paid, and shall thereupon certify to the county treasurer of each of the counties embraced in the provisions of this act, the amount of said additional compensation which is payable by each of said counties.

§ 4. DUTY OF THE SEVERAL COUNTY TREASURERS.] It is hereby made the duty of the county treasurer of each of the organized counties of said First Judicial District, annually and within 30 days after the board of equalization shall have acted upon the assessment roll of said counties respectively, to certify to the county treasurer of the county of Lawrence, a statement of the assessed valuation of the property in each of [said] counties, and thereupon said treasurer of said Lawrence county shall make and certify to the county treasurer of each organized county of said judicial district, the proportion of the extra compensation herein provided for, payable by each of said counties, and after each such apportionment the said extra compensation shall be paid upon the basis of the same, commencing from the first day of January in each year thereafter.

§ 5. WHERE TREASURERS FAIL TO FURNISH CERTIFICATE.] If any of the treasurers of the said counties shall fail to furnish such statement of the assessed valuation, as aforesaid, then the said treasurer of Lawrence county shall fix the amount justly payable, by any county so failing, from the best information in his possession.

§ 6. ACT TO BE IN FORCE DURING INCUMBENCY OF PRESENT JUDGE.] This act shall be and continue in force so long and only so long as the present incumbent shall remain the judge of said First Judicial District.

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

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THE COUNCIL CHAMBER,  
Yankton, D. T., Feb. 1st, 1881. }

I hereby certify that on this day this act was returned to the Council, the house in which it originated, without the approval of his Excellency, Governor N. G. Ordway, with his objections to this bill in writing. His objections were entered at large on the journal of the Council, and 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:

E. B. DAWSON,  
*Chief Clerk of the Council.*

GEO. H. WALSH,  
*President of the Council.*

I hereby certify that on this second day of February, this bill, together with the objections of the Governor, was received from the Council, and the House thereupon proceeded to reconsider said bill, and the question being put, "shall the bill pass, notwithstanding the objections of the Governor," it was decided in the affirmative, two-thirds of the House voting to pass the bill, and then it was approved by the House.

Attest:

FRANK J. MEAD,  
*Chief Clerk of the House.*

J. A. HARDING,  
*Speaker of the House.*

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## Jurors.

### CHAPTER 86.

#### EXEMPTION FROM JURY DUTY.

AN ACT to amend Section One of Chapter Nineteen of the Political Code.

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

§ 1. WHO MAY BE EXEMPT.] That section one of chapter nineteen of the Political Code be amended by adding thereto the following words: "*And provided further, That all members in good standing of any regularly organized fire company, possessing fire apparatus worth not less than two hundred and fifty dollars, and in towns or cities of more than five hundred inhabitants, not exceeding thirty members, and in towns of a less number of inhabitants, not exceeding ten members, may be excused from serving as jurors, in the discretion of the court or judge thereof.*"

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

Approved, February 11, 1881.

## Justices' Code.

### CHAPTER 87.

#### FORCIBLE ENTRY AND DETAINER.

AN ACT to amend Sections Thirty-Nine and Forty, Article VI, Chapter One, of Justices' Code.

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

§ 1. JUDGMENT WHERE FINDING IS IN FAVOR OF PLAINTIFF.] That section 39 of the Justices' Code be amended to read as follows: "§ 39. If the finding of the court or the verdict of a jury be in favor of the plaintiff, the judgment shall be for the delivery of the possession to the plaintiff, and for rents and profits or damages, where the same are claimed in the complaint, and for costs."

§ 2. ACTION UNDER THIS ARTICLE, HOW BROUGHT.] That section 40 of the Justice Code be amended to read as follows: "§ 40. An action under the provisions of this article cannot be brought in connection with any other, except for rents and profits or damages; and no execution for possession can be served except in the daytime: *Provided*, That the plaintiff may bring separate action under the provisions of this article if he so desire."

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

Approved, February 21, 1881.

## CHAPTER 88.

## PLACE OF TRIAL.

AN ACT to amend Section Seven (7) of the Justices' Code.

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

§ 1. WHEN PLACE OF TRIAL IS ORDERED CHANGED.] That section seven (7) of the Justices' Code be, and the same is, hereby amended to read as follows: "§ (7.) When the court orders the place of trial to be changed, the action must be transferred for trial to a justice's court the parties may agree upon; and if they do not so agree, then to the next nearest justice's court in the same county."

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

Approved, February 3, 1881.

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CHAPTER 89.

## SECURITY FOR COSTS.

An Act to amend Section 101 of Chapter 1 of the Justices' Code.

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

§ 1. DUTY OF JUSTICE WHEN PLAINTIFF IS A NON-RESIDENT.] Section 101 of chapter 1 of the Justices' Code is hereby amended to read as follows: "The justice shall in all cases where plaintiff is a non-resident of the Territory, or foreign corporation, before issuing a summons, require of the plaintiff sufficient surety for costs. The surety must be a resident of the county. His obligation shall be complete by simply endorsing the summons, or signing his name on the complaint, as security for costs. In all other cases the justice may, in his discretion, require surety for costs."

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, February 12, 1881.

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## Laws.

### CHAPTER 90.

#### DISTRIBUTION OF LAWS.

AN ACT to amend Chapter 3 of the Political Code of 1877.

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

§ 1. WHO ENTITLED TO LAWS.] That section 4, chapter 3, of the Political Code of 1877, be amended by adding to said section the following: "One copy to the board of trustees of the Dakota Hospital for the Insane, and one copy to the trustees of the Dakota penitentiary."

§ 2. SECRETARY TO FURNISH LAWS TO MEMBERS OF THE LEGISLATURE.] That the secretary of the Territory is hereby authorized and required to furnish to each member of this Legislative Assembly one copy of the Revised Codes of 1877, and one copy of the session laws of 1879 and 1881.

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

Approved, March 3, 1881.

## Library.

### CHAPTER 91.

#### TERRITORIAL LIBRARY.

AN ACT to Provide for the Insurance of the Territorial Library, and for the Purchase of Certain Books and to Appropriate Funds therefor.

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

§ 1. SECRETARY TO PROCURE INSURANCE.] That the Secretary of the Territory of Dakota may and it is hereby made his duty to insure for two years the Territorial Library, for a sum not exceeding four thousand dollars, at the lowest rates obtainable for reliable insurance.

§ 2. SECRETARY MAY PURCHASE CERTAIN BOOKS.] That the Secretary of the Territory of Dakota is hereby authorized to purchase for the Territorial Library from time to time digests and such reports of the circuit and district courts of the United States as he may deem advisable.

§ 3. APPROPRIATION.] That there is hereby appropriated out of the territorial treasury the sum of one hundred and twenty dollars, or so much thereof as may be necessary to pay the premium on the insurance herein provided for; and a further sum of fifty dollars per year, for two years, for the purchase of such books as are herein provided for.

§ 3. [§ 4.] ACCOUNTS TO BE AUDITED AND PAID.] When the Secretary of the Territory shall have insured the Territorial Library, as herein provided for, the territorial auditor shall draw his warrant on the treasury in favor of said secretary for the amount actually paid for such insurance, not exceeding the amount herein appropriated; and when the Secretary of the Territory shall have purchased any books, as in this act provided for, he shall present the bills therefor to the auditor of the Territory, which shall be allowed by him the same as other bills against the Territory, and he shall draw his warrant on the territorial treasurer in favor of the Secretary of

the Territory, for the amount actually paid for such books, not exceeding the amount herein appropriated therefor.

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

Approved, February 25th, 1881.

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## Licenses.

### CHAPTER 92.

#### PEDDLERS AND AUCTIONEERS.

AN ACT to Amend Section 7, Chapter 36 of the Political Code, Entitled of "Peddlers and Auctioneers' " License.

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

§ 1. LAW—HOW TO BE CONSTRUED.] That section 7, of chapter 36, of the Political Code, entitled of "Peddlers and Auctioneers' License," be and the same is hereby amended to read as follows: § 7. Nothing in this act shall be so construed as to extend to the sale of goods, wares and merchandise, by merchants who pay an annual tax upon the same, assessed according to the revenue laws of this Territory, nor to persons who sell commodities manufactured or raised by themselves in this Territory or in any adjoining State or Territory.

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

Approved, February 28th, 1881.

## Mechanics' Liens.

### CHAPTER 93.

#### ATTACHMENT.

AN ACT to Amend Section 215 of the Code of Civil Procedure.

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

§ 1. PROCEEDINGS IN DISCHARGING ATTACHMENT.] That section 215 of the Code of Civil Procedure be amended so as to read as follows: § 215. In all cases the defendant or any person who has acquired a lien upon or interest in the defendant's property after it was attached may move to discharge the attachment, if the motion be made upon affidavits on the part of the defendant or person who has acquired a lien upon or interest in the defendant's property after it was attached, but not otherwise. The plaintiff may oppose the same by affidavit or other proof, in addition to the affidavit on which the attachment was granted, and in such case the defendant or person who has acquired a lien upon or interest in the defendant's property after it was attached, may sustain the motion by affidavits or other proof, in rebuttal of the affidavits or other proof offered and submitted on the part of the plaintiff to approve the motion, and when there is more than one defendant and several property of either of the defendants has been seized by virtue of the warrant of attachment, such defendant may deliver to the court or clerk an undertaking, in accordance with the provisions of the preceding section, to the effect that he will, on demand, pay to the plaintiff the amount of judgment that may be recovered against such defendant, and all the provisions of the preceding section relating to such undertaking apply thereto.

§ 2. That this act shall be in force and effect from and after its passage and approval.

Approved, February 25th, 1881.

## CHAPTER 94.

## SUB-CONTRACTORS.

AN ACT to Amend Section 656 of the Code of Civil Procedure.

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

§ 1. PROCEEDINGS BY SUB-CONTRACTORS.] That section six hundred and fifty-six of the Code of Civil Procedure be amended to read as follows: § 656. Every sub-contractor wishing to avail himself of the benefits of this chapter shall give notice to the owner, his agent or trustee before or at the time he furnishes any of the things aforesaid or performs any labor, of his intention to perform or furnish the same, and shall within sixty days after such material shall have been furnished or labor performed file with the clerk of the district court of the county or judicial subdivision in which the building, erection or other improvement to be charged with the lien is situated, a just and true account of the demand due him after allowing all credits, and containing a correct description of the property to be charged with said lien and verified by his affidavit. But a failure to file the same within the time aforesaid shall not defeat the lien, except as against purchasers or incumbrances in good faith and without notice, whose rights accrued after the sixty days and before any claim for the lien was filed, or against the owners, except the amount due to contractor at the time of filing the same.

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

Approved, March 3d, 1881.

## Mill Dams and Mills.

### CHAPTER 95.

AN ACT to Amend Chapter Thirty-nine (39) of the Political Code of 1877.

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

§ 1. WHEN MILL OWNER MAY ENTER UPON LAND OF ANOTHER.] At the close of section twenty-two (22), of chapter thirty-nine (39), of the *Political Code* [Code of Civil Procedure] of 1877, add the following proviso: *Provided, however:* Where the water, backed up by any dam belonging to any mill owner or machinery, is about to break through or over the banks of the stream or race, or to wash a channel so as to turn the water of such stream or race, or any part thereof, out of its ordinary channel whereby such mill or machinery will be injured or affected, the owner or occupier of such mill or machinery if he does not own such banks or the lands lying contiguous thereto, may if necessary, enter thereon and erect and keep in repair such embankments and other works as shall be necessary to prevent such water from breaking through or over the banks of such stream or race, or washing a channel as aforesaid, such owner or occupier committing thereon no unnecessary waste or damage and being liable to pay any damages which the owner of the land may actually sustain by the erection and repair, aforesaid. *And provided further:* That if any person shall injure, destroy or remove any such embankment or other works, the owner or occupier of such mill or machinery may recover of such person all damages he may sustain by reason of such injury, destruction or removal.

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

ENDORSED.—Received at Executive Office, February 28, at 5:30 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 House 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.*

## Mining.

### CHAPTER 96.

#### LOCATION OF LODES.

AN ACT to amend Chapter 31 of the Political Code.

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

§ 1. DISCOVERER ENTITLED TO SIXTY DAYS BEFORE RECORDING.] That section 3 of chapter 31 of the Political Code be, and the same is, hereby amended by striking out the word "twenty" where it occurs in the second line thereof, and inserting in lieu thereof the word "sixty."

§ 2. NAME OF LOCATORS.] That subdivision 2 of section 3 of said chapter be amended by adding after the word "locator" the words "or locators."

§ 3. NAME OF LOCATORS.] That section 5 of said chapter be amended by adding after the word "locator" where it appears in the fifth line thereof the words "or locators."

§ 4. MARKING BOUNDARIES.] That section 6 of said chapter be amended by adding after the word "claim" the following: "and plainly marked with the name of the lode and the corner, end or side of the claim that they respectively represent."

§ 5. LOCATORS ENTITLED TO SIXTY DAYS TO PERFORM LABOR.] That section 8 of said chapter be amended by striking out the word "thirty" and inserting in lieu thereof the word "sixty."

§ 6. TIME OF DOING ANNUAL WORK.] That section 14 of said chapter be amended by adding at the end of said section the following: "*Provided*, That the period within which the work required to be done annually on all unpatented claims so located, shall commence on the first day of January succeeding the date of location of such claim."

§ 7. That section 15 of said chapter be and the same is hereby repealed.

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

ENDORSED.—Received at Executive Office, February 28, at 5:30 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 House 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.*

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**CHAPTER 97.**

**RIGHT OF WAY.**

**AN ACT Concerning the Right of Way, Easements and other Necessary Means for the Development of Mines.**

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

§ 1. OWNERS OF MINES TO HAVE RIGHT OF WAY.] That the proprietor, owner or owners of mining claims, whether patented under the laws of the United States, or held under the local laws and customs of this Territory, shall have a right of way for ingress for the necessary purpose over and across the land or mining claim patented or otherwise of others as hereinafter provided.

§ 2. SAME.] Whenever any such mine or mining claim shall be so situated that it cannot be conveniently worked without a road thereto, or a ditch or a cut to convey the water therefrom, or without a flume to carry water and tailings therefrom, or without a shaft or tunnel thereto, which road, ditch, cut or tunnel shall necessarily pass over, under, through or across any lands or mining claims owned or occupied by others, either under a patent from the United States or other-

wise, then shall such first mentioned owner or owners be entitled to a right of way for said road, ditch, flume, shaft or tunnel, over, under, through and across such other lands or mining claims upon compliance with the provisions of this act.

§ 3. PROCEEDINGS TO OBTAIN RIGHT OF WAY.] Whenever the owner or owners of any mining claim shall desire to work the same, and it is necessary to enable him or them to do so successfully and conveniently, that he or they shall have a right of way for any of the purposes in the foregoing section, and such right of way shall not have been acquired by agreement between him or them, and the claim, over, under, across and upon which he or they seek to establish such right of way, it shall be lawful for him or them to present to the judge of the district court of the several counties and subdivisions of the Territory of Dakota, in which such right of way or some part thereof sought to be enforced is situated, a petition praying that such right of way be awarded to him or them. Such petition shall be verified and contain a particular description of the character and extent of the right sought, a description of the mine or claim of the petitioner, and the claim or claims or lands to be affected by such right or privilege, with the names of the occupants or owners thereof; it may also set forth any tender or offer hereinafter mentioned, and shall demand the relief sought.

§ 4. PROCEEDINGS IN COURT.] Upon the receipt of such petition and filing thereof with the clerk of such court, the judge shall direct a citation to issue, under the seal of such court, to the owners named in the petition, of mining claims and lands to be affected by the proceedings, directing them and each of them to appear before the judge on a day therein named, which shall not be less than ten days from the service thereof, and show cause why such right of way should not be allowed as prayed for. Such citation shall be served on each of the parties in the manner prescribed by law for serving summons in ordinary proceedings at law.

§ 5. JUDGE SHALL APPOINT COMMISSIONERS.] Upon the return day of the citation, or upon any day to which the hearing shall be adjourned, the judge shall proceed to hear the allegations and proofs of the respective parties; and if upon such

hearing he is satisfied that the claims of the petitioner should be worked by means of the privilege prayed for, he shall make an order adjudging and awarding to the petitioner such right of way, and shall appoint three commissioners who shall be disinterested parties and residents of the county, to assess the damages resulting to the lands or claims affected by such order.

§ 6. ASSESSMENT OF DAMAGE BY COMMISSIONERS.] The commissioners so appointed shall be sworn or affirmed to faithfully and impartially discharge their duties, and shall proceed without unreasonable delay to examine the premises, and shall assess the damage resulting from such right or privilege prayed for, and report the amount to the judge appointing them; and if such right of way shall affect the property of more than one person or company, such report shall contain an assessment of damages to each company or person.

§ 7. JUDGE MAY SET ASIDE REPORT, ETC.] For good cause shown the judge may set aside the report of such commissioners and appoint three other commissioners, whose duties shall be the same as above mentioned.

§ 8. PETITIONER ENTITLED TO RIGHT OF WAY UPON TENDER OF PAYMENT.] Upon the payment of the sum assessed as damages as aforesaid to the persons to whom it shall be awarded, or a tender thereof to them, then the person petitioning as aforesaid shall be entitled to the right of way prayed for in their or his petition, and may immediately proceed to occupy the same and to erect thereon such work and structures, and make therein such excavations as may be necessary to the use and enjoyment of the right of way so awarded.

§ 9. APPEALS.] Appeals from the assessment of the commissioners may be made and prosecuted in the proper district court by any party interested, at any time within ten days after filing the report of the commissioners, and a written notice of such appeal shall be served upon the appellee in the same manner as summons are served in civil actions. The appellant shall file with the clerk of the court to which the appeal is made, a bond with sureties, to be approved by the clerk, in the amount of the assessment appealed from in favor of the appellee, conditioned that the appellant shall

pay any costs that may be awarded to the appellee, and abide any judgment that may be rendered in the cause.

§ 10. TRIAL OF APPEAL.] Appeals shall bring before the appellate court only the propriety of the amount of damages, and may be tried by the court or by a jury as other cases in court.

§ 11. PROSECUTION OF APPEAL NOT TO HINDER WORK.] The prosecution of any appeal shall not hinder, delay or prevent the appellee from exercising all the rights and privileges mentioned in section eight of this act: *Provided*, That the appellee shall file with the clerk of the court in which the appeal is pending a bond, with sufficient sureties, to be approved by the clerk, in double the amount of the assessment appealed from, conditioned that the appellee shall pay to the appellant whatever amount he may recover in the action, not exceeding the amount of such bond.

§ 12. WHEN APPELLEE TO PAY COSTS ] If the appellant recover fifty dollars more damages than the commissioners shall have awarded, or the appellee shall offer to allow judgment against him to be taken, the appellee shall pay the costs of the appeal, otherwise the appellant shall pay such costs.

§ 13. COSTS AND EXPENSES, BY WHOM PAID.] The costs and expenses under the provisions of this act, except as herein otherwise provided, shall be paid by the party making the application: *Provided, however*, That if the applicant shall before the commencement of such proceeding have tendered to the parties owning or occupying such lands or mining claims, a sum equal to, or more than the amount of damages assessed by the commissioners, then all of the costs and expenses shall be paid by the party or parties owning the lands or claims affected by such right of way, and who appeared and resisted the claims of the applicants.

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

Approved, March 3, 1881.

## Normal Schools.

### CHAPTER 98.

#### ALEXANDRIA.

AN ACT to Locate, Establish and Endow a State Normal School.

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

§ 1. NORMAL SCHOOL ESTABLISHED AT ALEXANDRIA. ITS OBJECT. PROVISIO.] That a Normal School for the Territory of Dakota be established at Alexandria, in Hanson county D. T., the exclusive purpose of which shall be the instruction of persons, both male and female, in the art of teaching and in all the various branches that pertain to a good common school education; also to give instruction in the mechanical arts and in husbandry and agricultural chemistry, in the fundamental law of the United States, and in what regards the rights and duties of citizens. *Provided:* That a tract of land, not less than one hundred [and] sixty (160) acres, within one mile from the corporate limits of the town of Alexandria, aforesaid, be donated and secured to the Territory of Dakota, in fee simple, as a site for said Normal School, within six months after the passage and approval of this act; and the governor of the Territory is hereby empowered and it is made his duty to see that a good and sufficient deed be made to the Territory for the same.

§ 2. SUPERVISION.] That said Normal School shall be under the direction of a board of education and shall be governed and supported as hereinafter provided.

§ 3. BOARD TO ERECT BUILDING, ETC.] The said board of education are hereby authorized and it is made a part of their duty to immediately commence the erection and construction of a suitable building for said Normal School upon the grounds specified in this act, as a site for the same, as soon as a sufficient appropriation is secured for the erection thereof. They shall have the power to let contracts for the building and completing of said Normal School building, and shall have

the entire supervision of its construction, providing that all contracts let for the erection and completion of said institution shall be let to the lowest responsible bidder, after the letting of said contract shall have been published in at least four of the leading newspapers, located in different parts of the Territory, for at least thirty (30) days before the letting of said contract, and the said board shall have the power to reject any or all bids. It is also the duty of said board of education and they are hereby empowered to make the selection of said site for said Normal School.

§ 4. NUMBER OF BOARD AND TERMS OF OFFICE. REPORTS, ETC.] Said board of education shall consist of five (5) members, three of whom shall be appointed by the governor and by and with the consent of the legislative council—one of whom shall hold his office six years, one for four (4) years, and one for two (2) years. The governor shall designate the one who shall hold his office for six (6) years, the one for four (4) years, and the one for two (2) years. The territorial treasurer and superintendent of public instruction shall by virtue of their offices be members of said board. The territorial treasurer, by virtue of his office, shall be treasurer of said board, and the members thereof shall annually elect from their number a president and secretary. It shall be the duty of the secretary to keep an exact detailed account of the doings of said board and he shall submit such reports to the legislature as are required by this act; and no member of said board of education shall during his continuance in office as a member of said board, act as agent of any publisher or publishers of school books or school library books, either directly or indirectly; and the governor of the Territory is hereby authorized and required upon satisfactory evidence being produced to him that any member of said board is employed as such agent or is interested, as aforesaid, to remove such member of said board from office and to appoint another in his place to fill such vacancy.

§ 5. POWERS OF BOARD TO APPOINT AND REMOVE.] Said board shall have power to appoint a principal and assistant to take charge of said school, and such other teachers and officers as may be required in said school, and fix the salary of each and prescribe their several duties. They shall also have power

to remove either the principal, assistant or teachers and appoint others in their stead. They shall prescribe the various books to be used in said school and make all regulations and by-laws necessary for the good government and management of the same.

§ 6. NOTICE WHEN SCHOOL IS READY FOR PUPILS.] As soon as said Normal School is prepared to receive pupils, the superintendent of public instruction shall give notice of the fact to each county clerk in the Territory and shall publish said notice in a newspaper published in each judicial district.

§ 7. APPLICATIONS FOR ADMISSION.] The board of education shall ordain such rules and regulations for the admission of pupils to said school as they shall deem necessary and proper. Every applicant for admission shall undergo an examination in such manner as shall be prescribed by the board, and if it shall appear that the applicant is not a person of good moral character, will not make an apt and good teacher, such applicant shall be rejected. The board of education may, in their discretion, require any applicant for admission into said school, prior to such admission, to sign and file with said board a declaration of intention to follow the business of teaching schools in this Territory, to pay or secure to be paid such fees for tuition as to said board shall seem reasonable.

§ 8. CONDITIONS OF ADMISSION TO SCHOOL.] Any person may be admitted as a pupil of said Normal School, who shall pass a satisfactory examination, provided that the applicant shall before admission, sign a declaration of intention to follow the business of teaching schools in this Territory. *And provided further:* That the pupil may be admitted without signing such declaration of intention, on such terms as the Normal School board may require or prescribe; and each county shall be entitled to send pupils in ratio to their representation in the legislature to which it may be entitled, not to exceed such number as the board may prescribe.

§ 9. VISITING SCHOOL BY COMMITTEE.] After said Normal School shall have commenced its first term, and at least once in each year thereafter, it shall be visited by three suitable persons, not members, to be appointed by the board of education, who shall examine thoroughly into the affairs of the school and report to the superintendent of public instruction or auditor their views in regard to its condition, success and

usefulness, and any other matter they may judge expedient. Such visitors shall be appointed annually.

§ 10. LECTURES.] Lectures in chemistry, comparative anatomy, the mechanical arts, agricultural chemistry and any other science, or any other branches of literature that the board of education may direct, may be delivered to those attending such school, in such manner and on such terms and conditions as the board of education may prescribe.

§ 11. CERTIFICATE TO QUALIFIED PUPIL.] As soon as any person has attended said institution twenty-two (22) weeks, said person may be examined in the studies required by the board in such manner as may be required by them, and if it shall appear that such person possesses the learning and other qualifications necessary to teach a good common school, said person shall receive a certificate which shall entitle the holder to teach a common school in any county in the Territory, for the time and in the branches stated in said certificate.

§ 12. SCHOOL FUNDS—HOW DISBURSED.] All funds appropriated for the use and benefit of said Normal School shall be under the direction and control of the board of education, subject to the provisions herein contained. The treasurer of the Territory shall pay out of such funds all orders or drafts for money to be expended under the provisions of this act, such orders or drafts to be drawn by the territorial auditor, on certificate of the secretary, countersigned by the president of the board. No such certificate shall be given except upon accounts audited and allowed by the board at their regular meetings.

§ 13. PAYMENT OF SALARIES, ETC.] Services and all other necessary traveling expenses, as hereinafter provided, incurred by the board of education in carrying out the provisions of this act, shall be paid on the proper certificate out of any funds belonging to said institution in the hands of the treasurer. Until the erection and completion of the necessary buildings, the principal, assistants, teachers, board of education and other officers employed in said school, shall be paid out of the Normal School fund, and from the receipts for tuition after the erection of the necessary buildings. The members of the board of education shall be entitled to three dollars per day and ten cents per mile actually and necessarily traveled in attending the meetings of the board.

§ 14. SCHOOL LANDS TO BE SELECTED AND SOLD.] For the purpose of erecting said Normal School building, the governor, secretary of state and auditor, shall within six months after the admission of Dakota as a State, or as soon thereafter as the government shall cede to the State of Dakota the school lands lying within her border, set apart for the erection of said Normal school building twenty (20) sections of land belonging to the State of Dakota, which lands shall be selected from any lands not otherwise appropriated: and the governor, secretary of state and auditor may, at their discretion, after advertising four months in at least four newspapers published in the State, sell said lands to the highest bidder at public sale; said land to be sold in quantities, not exceeding one hundred and sixty (160) acres to any one person at one bid. *Provided, however:* That no part of said land shall be sold for less than three dollars (\$3.00) per acre.

§ 15. DISPOSITION OF FUNDS ARISING FROM SALE.] The proceeds of said sale shall be deposited with the treasurer as a Normal School fund and shall be drawn therefrom upon the warrant of the auditor, to be issued in pursuance of a certificate of the board of education, signed by their president and countersigned by the secretary, that the money is due and payable to the principal of the Normal School or his assistants, as the teachers or officers employed, or the members of the board of education, as herein authorized, or for necessary incidental expenses in the support and maintenance of said school, or for the erection and completion of the Normal School building.

§ 16. VACANCIES.] That it shall be the duty of the governor to fill, by appointment, all vacancies that may occur in said board of said school from neglect of duty.

§ 17. ADJOURNMENT OF SALE OF LANDS.] That the governor, secretary of state and auditor may adjourn the sale of said lands from time to time, as they may deem necessary. *Provided:* That such adjournment shall in no case extend beyond a period of one year from the day first appointed for said sale.

§ 18. MEETINGS OF THE BOARD.] The board of education shall hold regular meetings in each year, to-wit: During the first week in June and the first week in January in each year, at which first meeting the officers of the board shall be elected.

All meetings of the board shall, when practicable, be in the Normal School building, and all financial matters, allowances, claims and accounts, shall be disposed of at such regular meetings only. Special meetings of the board may be called upon written order of the president of the same, which order shall specify the object of the meeting. An adjournment may be had from a regular or special meeting, but the adjournment must in either case state the reason in full of the same. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept, subject, at any time, to the inspection of any member of the board.

§ 19. REPORT OF THE BOARD.] The clerk of the board of education shall, on the first day of January of each year, transmit to the governor a full report of the expenditures of the same for the previous year, setting forth, in full, each item and the date thereof.

§ 20. NO RELIGIOUS TESTS REQUIRED.] The board of education, in their regulations, and the principal in his supervision and government of the schools, shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance at said school, but no religious or sectarian tests shall be applied in the selection of teachers and none shall be adopted in the school.

§ 21. PAYMENT OF EXPENSES OF SALES OF LANDS.] That all necessary expenses arising from the advertising and sale of said lands shall be paid from the funds arising from said sale, by a warrant drawn by the auditor upon the state treasurer. *Provided:* That all accounts for expenses, above specified, shall first be approved by the superintendent of public instruction.

§ 22. This act shall be in force and effect from and after its passage.

ENDORSED.—Received at Executive Office, February 28th, at 5:30 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 House 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 99.

## MADISON.

AN ACT to Locate, Establish and Endow a State Normal School.

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

§ 1. NORMAL SCHOOL LOCATED AT MADISON. PURPOSE. PROVISIO.] That a Normal School for the Territory of Dakota be established at Madison, in Lake county, D. T., the exclusive purpose of which shall be the instruction of persons both male and female in the art of teaching and in all the various branches that pertain to a good common school education; also to give instruction in the mechanical arts and in husbandry and in agricultural chemistry, in the fundamental laws of the United States and in what regards the rights and duties of citizens: *Provided*, That a tract of land not less than one hundred and sixty acres within one mile from the corporate limits of the town of Madison aforesaid, be donated and secured to the Territory of Dakota, in fee simple, as a site for said Normal School, within six months after the passage and approval of this act; and the governor of the Territory is hereby empowered and it is made his duty to see that a good and sufficient deed be made to the Territory for the same.

§ 2. SUPERVISION.] That said Normal School shall be under the direction of a board of education, and shall be governed and supported as hereinafter provided.

§ 3. BOARD TO ERECT BUILDING, ETC.] The said board of education are hereby authorized and it is made a part of their duty to immediately commence the erection and construction of a suitable building for said Normal School upon the grounds specified in this act as a site for the same, as soon as a sufficient appropriation is secured for the erection thereof. They shall have the power to let contracts for the building and completing of said Normal School building, and shall have the entire supervision of its construction; providing that all contracts let for the erection and completion of said institution shall be let to the lowest responsible bidder, after notice of the letting of said contract shall have been published in at

least four of the leading newspapers located in different parts of the Territory, for at least thirty (30) days before the letting of said contract, and the said board shall have the power to reject any or all bids. It is also the duty of the said board of education and they are hereby empowered to make the selection of said site for said Normal School.

§ 4. NUMBER OF BOARD AND TERMS OF OFFICE. REPORTS, ETC.] Said board of education shall consist of five (5) members, three of whom shall be appointed by the governor and by and with the consent of the Legislative Council—one of whom shall hold his office six years, one for four (4) years and one for two (2) years. The governor shall designate the one who shall hold his office for six (6) years, the one for four (4) and the one for two (2) years. The territorial treasurer and superintendent of public instruction shall by virtue of their offices be members of said board. The territorial treasurer by virtue of his office shall be treasurer of said board, and the members thereof shall annually elect from their number a president and secretary. It shall be the duty of the secretary to keep an exact detailed account of the doings of said board, and he shall submit such reports to the legislature as are required by this act; and no member of said board of education shall, during his continuance in office as a member of said board, act as an agent of any publisher or publishers of school books or school library books, either directly or indirectly; and the governor of the Territory is hereby authorized and required, upon satisfactory evidence being produced to him that any member of said board is employed as such agent or interested as aforesaid, to remove such member of said board from office and to appoint another in his place to fill such vacancy.

§ 5. POWERS OF BOARD TO APPOINT AND REMOVE.] Said board shall have power to appoint a principal and assistant to take charge of said school, and such other teachers and officers as may be required in said school, and fix the salary of each and prescribe their several duties. They shall also have power to remove either the principal, assistant or teachers and appoint others in their stead. They shall prescribe the various books to be used in said school, and make all regula-

tions and by-laws necessary for the good government and management of the same.

§ 6. NOTICE WHEN SCHOOL IS READY FOR PUPILS.] As soon as said Normal School is prepared to receive pupils the superintendent of public instruction shall give notice of the fact to each county clerk in the Territory, and shall publish said notice in a newspaper published in each judicial district.

§ 7. APPLICATIONS FOR ADMISSION.] The board of education shall ordain such rules and regulations for the admission of pupils to said school as they shall deem necessary and proper. Every applicant for admission shall undergo an examination in such manner as shall be prescribed by the board, and if it shall appear that the applicant is not a person of good moral character, or will not make an apt and good teacher. such applicant shall be rejected. The board of education may, in their discretion, require any applicant for admission into said school, prior to such admission, sign and file with said board a declaration of intention to follow the business of teaching schools in this Territory, to pay or secure to be paid such fees for tuition as to said board shall seem reasonable.

§ 8. CONDITIONS OF ADMISSION TO SCHOOL.] Any person may be admitted as a pupil of said Normal School who shall pass a satisfactory examination, provided that the applicant shall, before admission, sign a declaration of intention to follow the business of teaching schools in this Territory. *And provided further*, That the pupil may be admitted without signing such declaration of intention, on such terms as the Normal School Board may require or prescribe; and each county shall be entitled to send pupils in ratio to their representation in the legislature to which it may be entitled, not to exceed such number as the board may prescribe.

§ 9. VISITING SCHOOL BY COMMITTEE.] After said Normal School shall have commenced its first term, and at least once in each year thereafter, it shall be visited by three suitable persons, not members, to be appointed by the board of education, who shall examine thoroughly into the affairs of the school and report to the superintendent of public instruction or auditor their views in regard to its condition, success and usefulness, and any other matter they may judge expedient. Such visitors shall be appointed annually.

§ 10. LECTURES.] Lectures in chemistry, comparative anatomy, the mechanical arts, agricultural chemistry, and any other science, or any other branches of literature that the board of education may direct, may be delivered to those attending such school, in such manner and on such terms and conditions as the board of education may prescribe.

§ 11. CERTIFICATE TO QUALIFIED PUPIL.] As soon as any person has attended said institution twenty-two (22) weeks said person may be examined in the studies required by the board in such manner as may be required by them, and if it shall appear that such person possesses the learning and other qualifications necessary to teach a good common school, said person shall receive a certificate which shall entitle the holder to teach a common school in any county in the Territory for the time and in the branches stated in said certificate.

§ 12. SCHOOL FUNDS—HOW DISBURSED.] All funds appropriated for the use and benefit of said Normal School shall be under the direction and control of the board of education subject to the provisions herein contained. The treasurer of the Territory shall pay out of such funds all orders and drafts for money to be expended under the provisions of this act, such orders or drafts to be drawn by the territorial auditor, on certificate of the secretary, countersigned by the president of the board. No such certificates shall be given except upon accounts audited and allowed by the board at their regular meetings.

§ 13. PAYMENT OF SALARIES, ETC.] Services and all other necessary traveling expenses, as hereinafter provided, incurred by the board of education in carrying out the provisions of this act, shall be paid on the proper certificate, out of any funds belonging to said institution in the hands of the treasurer. Until the erection and completion of the necessary buildings, the principal, assistants, teachers, board of education and other officers employed in said school shall be paid out of the Normal School fund and from the receipts for tuition after the erection of the necessary buildings. The members of the board of education shall be entitled to three dollars per day and ten cents for each mile actually and necessarily traveled in attending the meetings of the board.

§ 14. SCHOOL LANDS TO BE SELECTED AND SOLD.] For the purpose of erecting said Normal School building, the governor, secretary of state or territory and auditor, shall, within six months after the admission of Dakota as a state, or as soon thereafter as the government shall cede to the State of Dakota the school lands lying within her border, set apart for the erection of said Normal School building twenty (20) sections of land belonging to the State of Dakota, which lands shall be selected from any lands not otherwise appropriated; and the governor, secretary of state and auditor, may, at their discretion, after advertising four months, in at least four newspapers published in the state, sell said lands to the highest bidder at public sale; said land to be sold in quantities, not exceeding one hundred and sixty (160) acres, to any one person at one bid: *Provided, however,* That no part of said land shall be sold for less than three dollars (\$3) per acre.

§ 15. DISPOSITION OF FUNDS ARISING FROM SALE.] The proceeds of said sale shall be deposited with the treasurer as a Normal School fund, and shall be drawn therefrom upon the warrant of the auditor, to be issued in pursuance of a certificate of the board of education, signed by the president and countersigned by the secretary, that the money is due and payable to the principal of the Normal School or his assistants, or the teachers or officers employed or the members of the board of education as herein authorized, or for necessary incidental expenses in the support and maintenance of said school or for the erection and completion of the Normal School building.

§ 16. VACANCIES.] That it shall be the duty of the governor to fill by appointment all vacancies that may occur in said board of said school from neglect of duty.

§ 17. ADJOURNMENT OF SALE OF LANDS.] That the governor, secretary of state and auditor may adjourn the sale of said lands from time to time as they may deem necessary: *Provided,* That such adjournment shall in no case extend beyond a period of one year from the day first appointed for said sale.

§ 18. MEETINGS OF THE BOARD.] The board of education shall hold regular meetings in each year, to-wit: During the

first week in June and the first week in January in each year at which first meeting the officers of the board shall be elected. All meetings of the board shall when practicable be in the Normal School building, and all financial matters, allowances, claims and accounts shall be disposed of at such regular meetings only. Special meetings of the board may be called upon written order of the president of the same which shall specify the object of the meeting. An adjournment may be had from a regular or special meeting, but the adjournment must in either case state the reason in full of the same. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept subject at any time to the inspection of any member of the board.

§ 19. REPORT OF THE BOARD.] The clerk of the board of education shall on the first day of January of each year transmit to the governor a full report of the expenditures of the same for the previous year, setting forth in full each item and the date thereof.

§ 20. NO RELIGIOUS TESTS REQUIRED.] The board of education in their regulations, and the principal in his supervision and government of the schools shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance at said school; but no religious or sectarian tests shall be applied in the selection of teachers, and none be adopted in the school.

§ 21. PAYMENT OF EXPENSES OF SALE OF LANDS.] That all necessary expenses arising from the advertising and sale of said lands shall be paid from the funds arising from said sale, by a warrant drawn by the auditor upon the state treasurer: *Provided*, That all accounts for expenses above specified shall first be approved by the superintendent of public instruction.

§ 22. This act shall be in force and effect from and after its passage.

Approved, March 5, 1881.

## CHAPTER 100.

## SPEARFISH.

AN ACT to Locate, Establish and Endow a Territorial Normal School.

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

§ 1. NORMAL SCHOOL ESTABLISHED AT SPEARFISH. ITS DESIGN, PROVISIO.] That a Normal School for the Territory of Dakota be established at Spearfish, in Lawrence county, Territory of Dakota, the exclusive purpose of which shall be the instruction of persons both male and female in the art of teaching, and in all the various branches that pertain to a good common school education; also to give instruction in the mechanical arts, and in husbandry and agricultural chemistry, in the fundamental laws of the United States, and in what regards the rights and duties of citizens: *Provided*, That a tract of land, not less than forty acres, adjacent to said town of Spearfish be donated and secured to the Territory of Dakota, in fee simple, as a site for said Normal School, within six months from the taking effect of this act; and the governor of the Territory is hereby empowered and it is made his duty to see that a good and sufficient deed, so far as can be, be made to the Territory for the same.

§ 2. SUPERVISION.] The said Normal School shall be under the direction of a board of education, and shall be governed and supported as hereinafter provided.

§ 3. BOARD TO ERECT BUILDING, ETC.] The board of education are hereby authorized and it is made their duty to immediately commence the erection and construction of a suitable building for said Normal School upon the ground specified in this act as a site for the same, as soon as sufficient appropriation is secured for the erection thereof. They shall have the power to let contracts for the building and completion of said Normal School building, and shall have the entire supervision of its construction: *Provided*, That all contracts connected with the erection of said building shall be let to the lowest responsible bidder, after notices of the letting of such contracts shall have been published in two of the leading newspapers located in the western part of the Territory for at least thirty days before the letting of said contracts, and the board shall have the power to reject any or all bids.

§ 4. NUMBER OF BOARD AND TERMS OF OFFICE. REPORTS, ETC.] Said board of education shall consist of five members, three of whom shall be appointed by the governor and by and with the consent of the Legislative Council—one of whom shall hold his office for six years, another for four years, another for two years. The governor shall designate which person shall hold his office for six years, which for four years and which for two years. The territorial treasurer and superintendent of public instruction shall by virtue of their offices be members of said board. The territorial treasurer by virtue of his office shall be treasurer of said board, and the members thereof shall annually elect from their number a president and secretary. It shall be the duty of the secretary to keep an exact and detailed account of the doings of said board, and he shall make such reports to the legislature as are required by this act.

§ 5. POWERS OF BOARD TO APPOINT AND REMOVE.] Said board of education shall have power to appoint a principal and assistant to take charge of said school, and such other teachers and officers as may be required in said school, and fix the salary of each and prescribe their several duties. They shall also have power to remove either the principal, assistant or teachers and appoint others in their stead. They shall prescribe the various books to be used in said school, and shall make all the regulations and by-laws necessary for the good government and management of the same.

§ 6. NOTICE WHEN SCHOOL IS READY FOR PUPILS.] As soon as said Normal School is prepared to receive pupils the superintendent of public instruction shall give notice of the fact to each county clerk in the Territory, and shall publish said notice in a newspaper published in each judicial district.

§ 7. APPLICATIONS FOR ADMISSION.] The said board of education shall ordain such rules and regulations for the admission of pupils to said school as they shall deem necessary and proper. Every applicant for admission shall undergo an examination in such manner as shall be prescribed by the board and the board may, in their discretion, require an applicant for admission into said school, other than such as shall, prior to such admission, sign and file with said board a declaration of intention to follow the business of teaching

schools in this Territory, to pay or secure to be paid such fees or tuition as to said board shall seem reasonable.

§ 8. VISITATIONS.] After said Normal School shall have commenced its first term, and at least once in each year thereafter, it shall be visited by three suitable persons not members, to be appointed by the board of education, who shall examine thoroughly into the affairs of the school, and report to the superintendent of public instruction or auditor their views in regard to its condition, success and usefulness, and any other matters they may judge expedient. Such visitors shall be appointed annually.

§ 9. CERTIFICATE TO QUALIFIED PUPIL.] As soon as any person has attended said institution twenty-two weeks, said person may be examined in the studies required by the board, in such manner as may be prescribed by them; and if it shall appear that such person possesses the learning and other qualifications necessary to teach a good common school, said person shall receive a certificate which shall entitle the holder to teach a common school in any county in the Territory, for the time and in the branches stated in said certificate.

§ 10. FUNDS—HOW DISBURSED.] All funds appropriated for the use and benefit of said Normal School shall be under the direction and control of the board of education subject to the provisions herein contained. The treasurer of the Territory shall pay out of such funds all orders or drafts for moneys to be expended under the provisions of this act, such orders or drafts to be drawn by the territorial auditor, on certificates of the secretary, countersigned by the president of the board. No such certificates shall be given except upon accounts audited and allowed by the board at their regular meetings.

§ 11. PAYMENT OF EXPENSES. SALARIES, ETC.] Services and all other necessary traveling expenses as hereinafter provided, incurred by members of the board of education in carrying out the provisions of this act, shall be paid on the proper certificate out of any funds belonging to said institution in the hands of the treasurer, until the erection and completion of the necessary buildings. The principal, assistants, teachers, board of education and other officers employed in said school shall be paid out of the Normal School fund and from receipts for tuition after the erection of the necessary buildings. The

members of the board of education shall be entitled to three dollars per day and ten cents for each mile necessarily traveled in attending meetings of the board.

§ 12. SCHOOL LANDS TO BE SELECTED AND SOLD.] For the purpose of erecting said Normal School building, the governor, secretary of state and auditor, shall, within six months after the admission of Dakota as a state, or as soon thereafter as the government shall cede to the State of Dakota the school lands lying within her borders, set apart for the erection of said Normal School building, twenty sections of land belonging to the state, which lands shall be selected from any lands not otherwise appropriated, and the governor, secretary of state and auditor, may, at their discretion, after advertising three months, in at least four newspapers published in the state, sell said lands to the highest bidder at public sale; said lands to be sold in quantities not exceeding one hundred and sixty acres to any one person at one bid: *Provided, however,* That no part of said land shall be sold for a less sum than three dollars per acre.

§ 13. FUNDS ARISING FROM SALE, HOW DISPOSED OF.] The proceeds of said sale shall be deposited with the treasurer as a Normal School fund, and shall be drawn therefrom upon a warrant of the auditor, to be issued in pursuance of a certificate of the board of education, signed by the president and countersigned by the secretary, that the money is due and payable to the principal of the Normal School, or his assistants, or the teachers or officers employed, or members of the board of education as herein authorized, or for necessary incidental expenses in the support and maintenance of said school, or the erection and completion of Normal School buildings.

§ 14. VACANCIES.] That it shall be the duty of the governor to fill by appointment all vacancies that may from any cause occur in the board of education of the Territorial Normal School, and he may, for neglect of duty or any violation of the trust reposed, or the arbitrary exercise of the power conferred, remove any member of said board and appoint a suitable person in his stead.

§ 15. ADJOURNING SALE.] That the governor, secretary of state and auditor may adjourn the sale of said lands from time to time as they deem necessary: *Provided,* That such

adjournment shall in no case extend beyond a period of one year from the day first appointed for the sale of said land.

§ 16. MEETING OF BOARD.] The board of education shall hold two regular meetings in each year, viz: during the first week in June and the first week in January in each year, at which first meeting the officers of the board shall be elected. Special meetings of the board may be called upon the written order of the president of the same, which order shall specify the object of the meeting. All financial matters, allowances, claims and accounts shall be disposed of at such board meetings only. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept subject at any reasonable time to the inspection of any member of the board.

§ 17. REPORTS.] The clerk of the board of education shall on the first day of January in each year, transmit to the governor a full report of the expenditures of the same for the previous year, setting forth in full each item and the date thereof.

§ 18. NO RELIGIOUS TEST TO GOVERN.] The board of education in their regulations, and the principal in his supervision and government of the school, shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance on the same, but no religious or sectarian tests shall be applied in the selection of teachers, and none shall be adopted in the school.

§ 19. INCIDENTAL EXPENSES OF SALE—HOW PAID.] That all necessary expenses arising from the advertising and sale of said lands shall be paid from the funds arising from said sale by a warrant drawn by the auditor upon the state treasurer: *Provided*, That all amounts for expenses above specified shall be first approved by the superintendent of public instruction.

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

ENDORSED.—Received at Executive Office, February 21, 1881, at 8 o'clock 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 House 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 101.

## SPRINGFIELD.

AN ACT to Locate, Establish and Endow a Territorial Normal School.

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

§ 1. LOCATION OF NORMAL SCHOOL AT SPRINGFIELD. ITS OBJECT. PROVISOR.] That a Normal School for the Territory of Dakota be established at Springfield, in Bon Homme county, Territory of Dakota, the exclusive purpose of which shall be the instruction of persons both male and female in the art of teaching, and in all the various branches that pertain to a good common school education; also to give instruction in the mechanical arts, and in husbandry and agricultural chemistry, in the fundamental laws of the United States, and in what regards the rights and duties of citizens: *Provided*, That a tract of land, not less than eighty acres, adjacent to said town of Springfield be donated and secured to the Territory of Dakota, in fee simple, as a site for said Normal School, within six months from the taking effect of this act; and the governor of the Territory is hereby empowered and it is made his duty to see that a good and sufficient deed be made to the Territory for the same.

§ 2. SUPERVISION.] The said Normal School shall be under the direction of a board of education, and shall be governed and supported as hereinafter provided.

§ 3. BOARD TO ERECT BUILDING, ETC.] The board of education are hereby authorized and it is made their duty to immediately commence the erection and construction of a suitable building for said Normal School upon the ground specified in this act as a site for the same, as soon as sufficient appropriation is secured for the erection thereof. They shall have the power to let contracts for the building and completion of said Normal School building, and shall have the entire supervision of its construction: *Provided*, That all contracts connected with the erection of said building shall be let to the lowest responsible bidder, after notices of the letting of such contracts shall have been published in at least four of the lead-

ing newspapers located in different parts of the Territory for at least thirty days before the letting of said contracts, and the board shall have the power to reject any or all bids.

§ 4. NUMBER OF BOARD AND TERMS OF OFFICE. REPORTS, ETC.] Said board of education shall consist of five members, three of whom shall be appointed by the governor and by and with the consent of the Legislative Council—one of whom shall hold his office for six years, another for four years, another for two years. The governor shall designate which person shall hold his office for six years, which for four years and which for two years. The territorial treasurer and the superintendent of public instruction shall by virtue of their offices be members of said board. The territorial treasurer by virtue of his office shall be treasurer of said board, and the members thereof shall annually elect from their number a president and secretary. It shall be the duty of the secretary to keep an exact and detailed account of the doings of said board, and he shall make such reports to the legislature as are required by this act; and no member of said board of education shall during his continuance in office as a member of said board, act as agent of any publisher or publishers of school books or school library books, or be or become interested in the publication or sale of such books as agent or otherwise, and the governor of this Territory is hereby authorized and required upon satisfactory evidence being produced to him, that any member of said board is employed as such agent or is interested as aforesaid, to remove such member of said board from office and appoint another in his place to fill such vacancy.

§ 5. POWERS OF BOARD TO APPOINT AND REMOVE.] Said board of education shall have power to appoint a principal and assistant to take charge of said school, and such other teachers and officers as may be required in said school, and fix the salary of each and prescribe their several duties. They shall also have power to remove either the principal, assistant or teachers and appoint others in their stead. They shall prescribe the various books to be used in said school, and shall make all the regulations and by-laws necessary for the good government and management of the same.

§ 6. NOTICE WHEN SCHOOL IS READY FOR PUPILS.] As soon as

said Normal School is prepared to receive pupils the superintendent of public instruction shall give notice of the fact to each county clerk in the Territory, and shall publish said notice in a newspaper published in each judicial district.

§ 7. APPLICATIONS FOR ADMISSION.] The board of education shall ordain such rules and regulations for the admission of pupils to said school as they shall deem necessary and proper. Every applicant for admission shall undergo an examination in such manner as shall be prescribed by the board, and if it shall appear that the applicant is not a person of good moral character, or will not make an apt and good teacher, such applicant shall be rejected. The board of education may, in their discretion, require an applicant for admission into said school, other than such as shall prior to such admission sign and file with said board a declaration of intention to follow the business of teaching schools in this Territory, to pay or secure to be paid such fees or tuition as to said board shall seem reasonable.

§ 8. CONDITIONS OF ADMISSION TO SCHOOL.] Any person may be admitted as a pupil of said Normal School, who shall pass a satisfactory examination, provided that the applicant shall before admission, sign a declaration of intention to follow the business of teaching schools in this Territory. *And provided further*, That the pupils may be admitted without signing such declaration of intention, on such terms as the Normal School board may prescribe; and each county shall be entitled to send pupils in the ratio of their representation in the legislature to which it may be entitled, not to exceed such a number as the board may prescribe.

§ 9. VISITING SCHOOL BY COMMITTEE.] After said Normal School shall have commenced its first term, and at least once in each year thereafter, it shall be visited by three suitable persons, not members, to be appointed by the board of education, who shall examine thoroughly into the affairs of the school and report to the superintendent of public instruction or auditor their views in regard to its condition, success and usefulness, and any other matter they may judge expedient. Such visitors shall be appointed annually.

§ 10. LECTURES.] Lectures in chemistry, comparative anatomy, the mechanical arts, agricultural chemistry and any

other science, or any other branches of literature that the board of education may direct, may be delivered to those attending such school, in such manner and on such terms and conditions as the board of education may prescribe.

§ 11. CERTIFICATE TO QUALIFIED PUPIL.] As soon as any person has attended said institution twenty-two weeks, said person may be examined in the studies required by the board in such manner as may be prescribed by them, and if it shall appear that such person possesses the learning and other qualifications necessary to teach a good common school, said person shall receive a certificate which shall entitle the holder to teach a common school in any county in the Territory, for the time and in the branches stated in said certificate.

§ 12. SCHOOL FUNDS—HOW DISBURSED.] All funds appropriated for the use and benefit of said Normal School shall be under the direction and control of the board of education, subject to the provisions herein contained. The treasurer of the Territory shall pay out of such funds all orders or drafts for money to be expended under the provisions of this act, such orders or drafts to be drawn by the territorial auditor, on certificate of the secretary, countersigned by the president of the board. No such certificate shall be given except upon accounts audited and allowed by the board at their regular meetings.

§ 13. PAYMENT OF SALARIES, ETC.] Services and all other necessary traveling expenses, as hereinafter provided, incurred by the board of education in carrying out the provisions of this act, shall be paid on the proper certificate out of any funds belonging to said institution in the hands of the treasurer. Until the erection and completion of the necessary buildings, the principal, assistants, teachers, board of education and other officers employed in said school, shall be paid out of the Normal School fund, and from the receipts for tuition after the erection of the necessary buildings. The members of the board of education shall be entitled to three dollars per day and ten cents for each mile necessarily traveled in attending the meetings of the board.

§ 14. SCHOOL LANDS TO BE SELECTED AND SOLD.] For the purpose of erecting said Normal School building, the governor, secretary of state and auditor, shall within six months after

the admission of Dakota as a State, or as soon thereafter as the government shall cede to the State of Dakota the school lands lying within her border, set apart for the erection of said Normal school building twenty sections of land belonging to the State, which lands shall be selected from any lands not otherwise appropriated: and the governor, secretary of state and auditor may, at their discretion, after advertising three months in at least four newspapers published in the State, sell said lands to the highest bidder at public sale; said land to be sold in quantities, not exceeding one hundred and sixty acres to any one person at one bid. *Provided, however:* That no part of said land shall be sold for a less sum than three dollars per acre.

§ 15. DISPOSITION OF FUNDS ARISING FROM SALE.] The proceeds of said sale shall be deposited with the treasurer as a Normal School fund and shall be drawn therefrom upon the warrant of the auditor, to be issued in pursuance of a certificate of the board of education, signed by the president and countersigned by the secretary, that the money is due and payable to the principal of the Normal School or his assistants, or the teachers or officers employed, or the members of the board of education, as herein authorized, or for necessary incidental expenses in the support and maintenance of said school, or for the erection and completion of the Normal School building

§ 16. VACANCIES.] That it shall be the duty of the governor to fill, by appointment, all vacancies that may from any cause occur in the board of education of the Territorial Normal School, and he may from neglect of duty or any violation of the trust reposed, or the arbitrary exercise of the power conferred, remove any member of said board and appoint a suitable person in his stead.

§ 17. ADJOURNMENT OF SALE OF LANDS.] That the governor, secretary of state and auditor may adjourn the sale of said lands from time to time, as they may deem necessary. *Provided:* That such adjournment shall in no case extend beyond a period of more than one year from the day first appointed for the sale of said land.

§ 18. MEETINGS OF THE BOARD.] The board of education shall hold two regular meetings in each year, viz: during the first week in June and the first week in January in each year,

at which first meeting the officers of the board shall be elected. All meetings of the board shall, when practicable, be in the Normal School building, and all financial matters, allowances, claims and accounts, shall be disposed of at such regular meetings only. Special meetings of the board may be called upon written order of the president of the same, which order shall specify the object of the meeting. An adjournment may be had from a regular or special meeting, but the journal must in either case state the reasons in full for the same. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept, at any reasonable time [open] to the inspection of any member of the board.

§ 19. REPORT OF THE BOARD.] The clerk of the board of education shall, on the first day of January of each year, transmit to the governor a full report of the expenditures of the same for the previous year, setting forth, in full, each item and the date thereof.

§ 20. NO RELIGIOUS TESTS REQUIRED.] The board of education, in their regulations, and the principal in his supervision and government of the schools, shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance on the same, but no religious or sectarian tests shall be applied in the selection of teachers, and none shall be adopted in the school.

§ 21. PAYMENT OF EXPENSES OF SALES OF LANDS ] That all necessary expenses arising from the advertisement and sale of said lands shall be paid from the funds arising from said sale, by a warrant drawn by the auditor upon the state treasurer. *Provided:* That all accounts for expenses, above specified, shall be first approved by the superintendent of public instruction.

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

ENDORSED.—Received at Executive Office, February 10th, at 12:30 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 102.

## WATERTOWN.

AN ACT to Locate, Establish and Endow a State Normal School.

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

§ 1. NORMAL SCHOOL LOCATED AT WATERTOWN. OBJECT. PROVISIO.] That a Normal School for the Territory of Dakota be established at Watertown, in Codington county, D. T., the exclusive purpose of which shall be the instruction of persons both male and female in the art of teaching and in all the various branches that pertain to a good common school education; also to give instruction in the mechanical arts and in husbandry and in agricultural chemistry, in the fundamental laws of the United States and in what regards the rights and duties of citizens. *Provided:* That a tract of land not less than eighty (80) acres within one mile from the corporate limits of the city of Watertown aforesaid, be donated and secured to the Territory of Dakota, in fee simple, as a site for said Normal School, within six months after the passage and approval of this act; and the governor of the Territory is hereby empowered and it is made his duty to see that a good and sufficient deed be made to the Territory for the same.

§ 2. SUPERVISION.] That said Normal School shall be under the direction of a board of education, and shall be governed and supported as hereinafter provided.

§ 3. BOARD TO ERECT BUILDING, ETC.] The said board of education are hereby authorized and it is made a part of their duty to immediately commence the erection and construction of a suitable building for said Normal School upon the grounds specified in this act as a site for the same, as soon as a sufficient appropriation is secured for the erection thereof. They shall have the power to let contracts for the building and completing of said Normal School building, and shall have the entire supervision of its construction; providing that all contracts let for the erection and completion of said institution shall be let to the lowest responsible bidder, after notice of the letting of said contract shall have been published in at

least four of the leading newspapers located in different parts of the Territory, for at least thirty (30) days before the letting of said contract, and the said board shall have the power to reject any or all bids. It is also the duty of the said board of education and they are hereby empowered to make the selection of said site for said Normal School.

§ 4. NUMBER OF BOARD AND TERMS OF OFFICE. REPORTS, ETC.] Said board of education shall consist of five (5) members, three of whom shall be appointed by the governor and by and with the consent of the Legislative Council—one of whom shall hold his office six years, one for four (4) years and one for two (2) years. The governor shall designate the one who shall hold his office for six (6) years, the one for four (4) years and the one for two years. The territorial treasurer and superintendent of public instruction shall by virtue of their offices be members of said board. The territorial treasurer by virtue of his office shall be treasurer of said board, and the members thereof shall annually elect from their number a president and secretary. It shall be the duty of the secretary to keep an exact detailed account of the doings of said board, and he shall make such reports to the legislature as are required by this act; and no member of said board of education shall, during his continuance in office as a member of said board, act as agent of any publisher or publishers of school books or school library books, either directly or indirectly; and the governor of the Territory is hereby authorized and required, upon satisfactory evidence being produced to him that any member of said board is employed as such agent or is interested as aforesaid, to remove such member of said board from office and to appoint another in his place to fill such vacancy.

§ 5. POWERS OF BOARD TO APPOINT AND REMOVE.] Said board shall have power to appoint a principal and assistant to take charge of said school, and such other teachers and officers as may be required in said school, and fix the salary of each and prescribe their several duties. They shall also have power to remove either the principal, assistant or teachers and appoint others in their stead. They shall prescribe the various books to be used in said school, and make all regula-

tions and by-laws necessary for the good government and management of the same.

§ 6. NOTICE WHEN SCHOOL IS READY FOR PUPILS.] As soon as said Normal School is prepared to receive pupils the superintendent of public instruction shall give notice of the fact to each county clerk in the Territory, and shall publish said notice in a newspaper published in each judicial district.

§ 7. APPLICATIONS FOR ADMISSION.] The board of education shall ordain such rules and regulations for the admission of pupils to said school as they shall deem necessary and proper. Every applicant for admission shall undergo an examination in such manner as shall be prescribed by the board, and if it shall appear that the applicant is not a person of good moral character, or will not make an apt and good teacher, such applicant shall be rejected. The board of education may, in their discretion, require any applicant for admission into said school, prior to such admission, to sign and file with said board a declaration of intention to follow the business of teaching schools in this Territory, to pay or secure to be paid such fees for tuition as to said board shall seem reasonable.

§ 8. CONDITIONS OF ADMISSION TO SCHOOL.] Any person may be admitted as a pupil of said Normal School who shall pass a satisfactory examination, provided that the applicant shall, before admission, sign a declaration of intention to follow the business of teaching schools in this Territory. *And provided further*, That the pupil may be admitted without signing such declaration of intention, on such terms as the Normal School Board may require or prescribe; and each county shall be entitled to send pupils in ratio to their representation in the legislature to which it may be entitled, not to exceed such number as the board may prescribe.

§ 9. VISITING SCHOOL BY COMMITTEE.] After said Normal School shall have commenced its first term, and at least once in each year thereafter, it shall be visited by three suitable persons, not members, to be appointed by the board of education, who shall examine thoroughly into the affairs of the school and report to the superintendent of public instruction or auditor their views in regard to its condition, success and usefulness, and any other matter they may judge expedient. Such visitors shall be appointed annually.

§ 10. LECTURES.] Lectures in chemistry, comparative anatomy, the mechanical arts, agricultural chemistry, and any other science, or any other branches of literature that the board of education may direct, may be delivered to those attending such school, in such manner and on such terms and conditions as the board of education may prescribe.

§ 11. CERTIFICATE TO QUALIFIED PUPIL.] As soon as any person has attended said institution twenty-two (22) weeks said person may be examined in the studies required by the board in such manner as may be required by them, and if it shall appear that such person possesses the learning and other qualifications necessary to teach a good common school, said person shall receive a certificate which shall entitle the holder to teach a common school in any county in the Territory for the time and in the branches stated in said certificate.

§ 12. SCHOOL FUNDS—HOW DISBURSED.] All funds appropriated for the use and benefit of said Normal School shall be under the direction and control of the board of education subject to the provisions herein contained. The treasurer of the Territory shall pay out of such funds all orders or drafts for money to be expended under the provisions of this act, such orders or drafts to be drawn by the territorial auditor, on certificate of the secretary, countersigned by the president of the board. No such certificates shall be given except upon accounts audited and allowed by the board at their regular meetings.

§ 13. PAYMENT OF SALARIES, ETC.] Services and all other necessary traveling expenses, as hereinafter provided, incurred by the board of education in carrying out the provisions of this act, shall be paid on the proper certificate, out of any funds belonging to said institution in the hands of the treasurer. Until the erection and completion of the necessary buildings, the principal, assistants, teachers, board of education and other officers employed in said school shall be paid out of the Normal School fund and from the receipts for tuition after the erection of the necessary buildings. The members of the board of education shall be entitled to three dollars per day and ten cents for each mile actually and necessarily traveled in attending the meetings of the board.

§ 14. SCHOOL LANDS TO BE SELECTED AND SOLD.] For the purpose of erecting said Normal School building, the governor, secretary of state or territory and auditor, shall, within six months after the admission of Dakota as a state, or as soon thereafter as the government shall cede to the State of Dakota the school lands lying within her border, set apart for the erection of said Normal School building twenty (20) sections of land belonging to the State of Dakota, which lands shall be selected from any lands not otherwise appropriated; and the governor, secretary of state and auditor, may, at their discretion, after advertising four months, in at least four newspapers published in the state, sell said lands to the highest bidder at public sale; said land to be sold in quantities, not exceeding one hundred and sixty (160) acres, to any one person at one bid: *Provided, however,* That no part of said land shall be sold for less than three dollars (\$3) per acre.

§ 15. DISPOSITION OF FUNDS ARISING FROM SALE.] The proceeds of said sale shall be deposited with the treasurer as a Normal School fund, and shall be drawn therefrom upon the warrant of the auditor, to be issued in pursuance of a certificate of the board of education, signed by the president and countersigned by the secretary, that the money is due and payable to the principal of the Normal School or his assistants, or the teachers or officers employed or the members of the board of education as herein authorized, or for necessary incidental expenses in the support and maintenance of said school or for the erection and completion of the Normal School building.

§ 16. VACANCIES.] That it shall be the duty of the governor to fill by appointment all vacancies that may occur in said board of said school from neglect of duty.

§ 17. ADJOURNMENT OF SALE OF LANDS.] That the governor, secretary of state and auditor may adjourn the sale of said lands from time to time as they may deem necessary: *Provided,* That such adjournment shall in no case extend beyond a period of one year from the day first appointed for said sale.

§ 18. MEETINGS OF THE BOARD.] The board of education shall hold regular meetings in each year, to-wit: During the

first week in June and the first week in January in each year at which first meeting the officers of the board shall be elected. All meetings of the board shall when practicable be in the Normal School building, and all financial matters, allowances, claims and accounts shall be disposed of at such regular meetings only. Special meetings of the board may be called upon written order of the president of the same which shall specify the object of the meeting. An adjournment may be had from a regular or special meeting, but the adjournment must in either case state the reason in full of the same. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept subject at any time to the inspection of any member of the board.

§ 19. REPORT OF THE BOARD.] The clerk of the board of education shall on the first day of January of each year transmit to the governor a full report of the expenditures of the same for the previous year, setting forth in full each item and the date thereof.

§ 20. NO RELIGIOUS TESTS REQUIRED.] The board of education in their regulations, and the principal in his supervision and government of the schools shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance at said school; but no religious or sectarian tests shall be applied in the selection of teachers, and none shall be adopted in the school.

§ 21. PAYMENT OF EXPENSES OF SALE OF LANDS.] That all necessary expenses arising from the advertising and sale of said lands shall be paid from the funds arising from said sale, by a warrant drawn by the auditor upon the state treasurer: *Provided*, That all accounts for expenses above specified shall first be approved by the superintendent of public instruction.

ENDORSED.—Received at Executive Office, February 21, 1881, at 8 o'clock 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 House 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.*

## Nuisances.

### CHAPTER 103.

#### RED RIVER OF THE NORTH.

AN ACT to Prevent Nuisances along the Red River of the North and its Tributaries.

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

§ 1. WHEN PERSON GUILTY OF MISDEMEANOR.] That any person who shall deposit, or cause to be deposited, upon the banks or in the waters of the Red River of the North, or its tributaries, between the city of Wahpeton, in the county of Richland and the northern boundary line of this Territory, any dead animal, offal or other refuse matter offensive to the sight or smell or deleterious to health, is guilty of a misdemeanor.

§ 2. If, upon conviction before any justice of the peace for the violation of this act, the party or parties so convicted shall be fined for the first offense fifty dollars and costs; for the second offense, seventy-five dollars and costs, one half of which fine shall go to the informer.

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

Approved, February 17th, 1881.

## 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 MINNEHAHA 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.

## Prairie Fires.

### CHAPTER 106.

#### BURNING PRAIRIES IN CERTAIN COUNTIES.

AN ACT respecting the Burning of Prairies and Setting of Prairie Fires in the Counties of Lawrence, Pennington, Mandan and Forsythe.

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

§ 1. PENALTY FOR SETTING FIRE TO WOODS OR PRAIRIES.] That if any person or persons shall willfully, negligently or carelessly set or cause to be set on fire any woods, marsh or prairie in the counties of Lawrence, Pennington, Custer, Mandan and Forsythe, or either of them, or if any person or persons having made any camp or other fire shall leave the said fire without having thoroughly extinguished the same so that the fire shall spread and burn any wood, marsh or prairie, the person or persons guilty of setting or causing to be set such fire or leaving such camp or other fire without having thoroughly extinguished the same so that the fire shall spread therefrom shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed two hundred dollars or imprisonment in the county jail not more than one year or by both such fine and imprisonment, in the discretion of the court, and shall also be liable in a civil action to any person or persons or corporation damaged by such fire to the amount of such damage.

§ 2. RESPONSIBILITY OF PARTY TO PERSON DAMAGED.] If the ranche, buildings, improvements, fencing, timber, marsh or other property of any person, persons or corporation shall be injured or destroyed by any such fire as described in the first section of this act, the person or persons who shall cause or allow the same as therein provided shall be responsible to the person, persons or corporation injured thereby for all damage or injury caused or sustained by reason of such fire.

§ 3. RESPONSIBILITY WHERE CATTLE RANGE IS INJURED.] If the cattle range or improvements of any person, persons or corporation shall be injured or destroyed by any such fire as described in the first section of this act, or if the hay put up on any such range or the grass growing thereon shall be injured by any such fire as aforesaid, the person or persons who shall cause or allow the same as therein provided shall be responsible to the person, persons or corporation owning or claiming the same and injured thereby for all damage or injury caused or sustained by reason of any such fire.

§ 4. PROOF NECESSARY TO ESTABLISH CLAIM FOR DAMAGES.] In any action instituted in any court to recover damages under the provisions of this act it shall not be necessary for any person, persons or corporation injured by any such fire to allege in their pleadings or prove on the trial of such action, title to the real property over which such fire has spread, but it shall be sufficient in any such action to allege and prove that the person, persons or corporation so injured was or were in the occupancy or possession of any such ranche, buildings, improvements, fencing, timber, marsh or other property, claiming the right to and occupying with cattle any such cattle range, it being the purpose and intention of this act to protect the possession as aforesaid of any person, persons or corporation, whether such person, persons or corporation have title to the land claimed or occupied by such person, persons or corporation or not.

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

Approved, February 11, 1881.

## Probate Code.

### CHAPTER 107.

#### CLAIMS.

AN ACT to Amend Section 140, of Chapter Six, of the Probate Code.

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

§ 1. FORECLOSURE OF MORTGAGES UPON REAL PROPERTY OF DECEDENTS.] That section 140 of chapter six of the Probate Code be and the same is hereby amended by adding thereto the following proviso: *Provided further:* That nothing in this section nor in this act contained, shall be construed to prohibit the right or limit the time of foreclosure of mortgages upon real property of decedents, whether heretofore or hereafter executed, but every such mortgage may be foreclosed within the time and in the mode prescribed by the Code of Civil Procedure, except that no balance of the debt secured by such mortgage remaining unpaid after foreclosure shall be a claim against the estate, unless such debt was presented as required by this code.

§ 2. All acts and parts of acts contravening the provisions of this act are hereby repealed.

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

Approved, March 1, 1881.

## CHAPTER 108.

## EXEMPTIONS.

AN ACT to Amend § 128, of Chapter 5, of the Probate Code.

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

§ 1. ADDITIONAL PROPERTY NOT CLASSED AS ASSETS.] That § 128 of chapter 5 of the Probate Code be amended by adding after division 6 of said section, the following: "7. All household and kitchen furniture, including stoves, beds, bedsteads and bedding," not exceeding one hundred and fifty dollars in value.

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

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

Approved, March 3d, 1881.

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## Probate Court.

## CHAPTER 109.

## FEES.

AN ACT to Repeal Section 14, of Chapter 39, of the Political Code.

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

§ 1. CONCERNING MAXIMUM FEES.] That section 14 of chapter 39 of the Political Code be and the same is hereby repealed.

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

Approved, February 16, 1881.

## Protection of Manufacturers.

### CHAPTER 110.

#### PROTECTION OF MANUFACTURERS OF BEVERAGES FROM LOSS OF CASKS, BOTTLES, ETC.

**AN ACT to Protect Manufacturers and Dealers in Ale, Beer, Soda Water and Other Beverages from the Loss of their Casks, Bottles, Boxes and other Packages.**

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

§ 1. REGISTER OF DEEDS TO RECORD TRADE MARK.] That it shall be the duty of the register of deeds of any county within the Territory, on the application of any person or firm domiciled within his county, in the Territory of Dakota, or of any corporation created under the laws of this Territory, engaged in the manufacture or sale of ale, porter, lager beer, soda water, mineral water or other beverages in packages, to record in a book suitable for the purpose, a description of the names, brands or trade-marks used by such persons or party for marking his casks, barrels, kegs, bottles, jugs, fountains, boxes or other packages, which book shall be and remain a public record in his office.

§ 2. FEE FOR RECORDING.] That the register of deeds shall collect of any such person, firm or corporation making application to have any such description of name, brand or trade-mark recorded in said register of deeds office a registration fee of one dollar for each and every such description of name, brand or trade-mark before the same be received for record and entered upon the books of the register of deeds office.

§ 3. MISAPPROPRIATION OF CASKS, ETC., DEEMED LARCENY.] That if any person or persons shall willfully and without the consent of the owner, appropriate to his or their own use, sell, destroy or otherwise dispose of any such casks, barrel, keg, bottle, jug, box, fountain or other package, not the property of himself or themselves, and having thereon the names, marks or brands

of any such manufacturer or dealer, the person or persons so offending shall be deemed guilty of larceny and be subject to all the provisions of the law applicable to such offense.

§ 4. PENALTY FOR DESTROYING CASKS, ETC.] That if any person shall unlawfully and maliciously obliterate, injure or destroy the names, marks or brands affixed to any cask, barrel, keg, bottle, jug, fountain, box or other package used or intended to be used for the purpose aforesaid and not the property of himself, the person so offending shall be deemed guilty of a misdemeanor and be subject to a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding sixty days, or both, as the court may deem proper.

§ 5. FOREIGN CORPORATIONS ENTITLED TO PROTECTION OF THIS ACT.] That any person or firm residing out of the Territory, or any corporation created under the laws of any other State or Territory, engaged in the business mentioned in section one, shall be entitled to the privilege and protection of this act. *Provided:* They cause the record to be made, as provided in said section one, in the office of the register of deeds of the county or counties where they or their duly authorized agents have their place of business within the Territory.

§ 6. This act to take effect and be in force from and after its passage and approval.

ENDORSED.—Received at Executive Office, February 25, at 1:30 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 House 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.*

## Revenue.

### CHAPTER 111.

#### COUNTY REVENUE.

AN ACT authorizing and Empowering Boards of County Commissioners to Levy a Tax of not more than Six Mills on the Dollar for Ordinary County Revenue, Including the Support of the Poor.

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

§ 1. COMMISSIONERS AUTHORIZED TO LEVY SIX MILL TAX.] That the boards of county commissioners of the Territory of Dakota are hereby authorized and empowered to levy a tax of not more than six mills on the dollar valuation for ordinary county revenue, including the support of the poor.

§ 2. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved, February 12, 1881.

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### CHAPTER 112.

#### DELINQUENT TAXES WHEN PARTY REMOVES FROM COUNTY.

AN ACT to amend Section 53, Chapter 28, of the Political Code.

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

§ 1. COLLECTING TAXES WHERE PARTY REMOVES FROM COUNTY.] That there be added to said section 53 at the close thereof the following: "*Provided, however,* That in case any person owing taxes removes from any county in this Territory, the county treasurer shall forward such tax claim to the treasurer

of the county to which such person has removed, and such taxes shall be collected by the county treasurer of the latter place as other taxes and returned to the proper county, less legal charges."

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

Approved, March 3, 1881.

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## CHAPTER 113.

### EXEMPTIONS.

AN ACT to amend Subdivision 14 of Section 2, Chapter 28 of the Political Code, entitled "Revenue."

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

[§ 1.] EXEMPTIONS OF LAND FOR TIMBER CULTURE.] That subdivision 14 of section 2, chapter 28 of the Political Code, entitled "Revenue" be amended by adding thereto the following: *Provided, however,* That no person shall derive any of the benefits as set forth in subdivision 14, section 2, of chapter 28, of the Political Code, until such person shall file an affidavit with the assessor that he has in every way complied with the requirements of the law made and provided in such cases, whereupon the assessor shall make a note of the facts in his list and shall therein state in effect the following words, to-wit: "Exempt from taxation by virtue of tree culture," and shall describe the particular tract or tracts of land so exempt.

[§ 2.] This act shall be in force from and after its passage and approval.

Approved, March 3, 1881.

## CHAPTER 114.

## EXEMPTIONS.

AN ACT to amend Section 2 of Chapter 28 of the Political Code, entitled  
"Revenue."

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

§ 1. MEMBERS OF FIRE COMPANIES AND FIRE APPARATUS.] That section 2 of chapter 28 of the Political Code, entitled "Revenue" be, and the same is, hereby amended by adding thereto as paragraph 17, the following: "17. The polls of all active members in good standing of any regularly organized fire company, not exceeding thirty in number, in cities or towns of more than five hundred inhabitants, and not exceeding fifteen in number, in towns or cities of less than five hundred inhabitants: *Provided*, That such fire company, actually and in good faith, possess apparatus for the extinguishment of fires, exceeding two hundred and fifty dollars in value, to be determined by the assessor of the proper county."

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

Approved, February 3, 1881.

## CHAPTER 115.

## EXTENDING TIME WHEN TAXES BECOME DELINQUENT.

AN ACT Extending the Time in which the Taxes shall become Delinquent  
for the year 1880.

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

§ 1. EXTENDING TIME WHEN TAXES SHALL BECOME DELINQUENT.] That in consideration of the extreme severity of the weather since the 15th of October, 1880, which has prevented the farming community from either threshing their grain or husking

their corn, the date in which taxes of all kinds in this Territory for the year 1880 shall become delinquent be and is extended two months from and after the first Monday of February, 1881, at the end of which time the same proceedings shall be had as would regularly be taken under the present law.

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

Approved, March 3, 1881.

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## CHAPTER 116.

### IMPROVEMENTS ON GOVERNMENT LAND.

AN ACT to Amend Subdivision (20) Twenty, of Section Three (3), of Chapter (28) Twenty-eight, of the Political Code, entitled "Revenue."

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

§ 1. WHAT IMPROVEMENTS ON GOVERNMENT LAND TAXABLE.] That subdivision (20) twenty, of section three, of chapter twenty-eight of the Political Code, entitled "Revenue," be amended to read as follows, to-wit: All other property, real and personal of any kind, including all improvements upon government lands, except the breaking or plowing upon said land, not specially exempted by the provisions of section two of this chapter.

§ 2. This act to take effect and be in force from and after its passage and approval by the governor,

ENDORSED.—Received at Executive Office, February 23d, at 9:00 A. 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 117.

## MISCELLANEOUS RECEIPTS BY COUNTY TREASURER.

AN ACT to Amend Section 49, Chapter 28, of the Political Code.

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

§ 1. DUTY OF TREASURER IN RECEIPTING FOR LICENSES, FINES, ETC.] That section forty nine, of chapter twenty-eight, of the Political Code be amended to read as follows: § 49. Whenever the treasurer receives any money, warrants or orders on account of licenses, fines or any other account, except taxes charged on the tax duplicate, he shall make out and deliver to the person paying the same duplicate receipts, one of which receipts said person shall forthwith deposit with the county clerk in order that the treasurer may be charged with the amount thereof. The treasurer shall then enter the same in his cash book as in case of money received for taxes, but in a separate place, and with a separate and distinct series of numbers of receipts issued therefor; and no person shall receive such license or be discharged from obligation by reason of such fine or account until he shall have so delivered such duplicate receipt to the county clerk.

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

Approved, February 17, 1881.

## CHAPTER 118.

## TIME OF MAKING ASSESSMENT AND COLLECTION OF TAXES.

AN ACT to Amend Chapter Twenty-eight of the Political Code and Chapter Forty-nine of the Session Laws of 1879, entitled, "Revenue."

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

§ 1. TIME OF LISTING MERCHANDISE.] That section 24, of chapter 28, of the Political Code be and the same is hereby amended by striking out the word February where it occurs in said section and inserting in lieu thereof the word May.

§ 2. TIME OF DELIVERING ASSESSMENT ROLL TO CLERK.] That section 26 of said chapter be and the same is hereby amended by striking out the word May where it occurs in said section and inserting in lieu thereof the word July.

§ 3. TIME OF EQUALIZATION.] That section 28 of said chapter be and the same is hereby amended by striking out the word May where it occurs in said section and inserting in lieu thereof the word July.

§ 4. SAME.] That section 29 of said chapter be and the same is hereby amended by striking out the word February where it occurs in said section and inserting in lieu thereof the word May.

§ 5. TIME WHEN CLERK FORWARDS ABSTRACT TO AUDITOR.] That section 31 of said chapter be and the same is hereby amended by striking out the word May where it occurs in said section and inserting in lieu thereof the word July.

§ 6. TIME OF EQUALIZATION BY TERRITORIAL BOARD.] That section 32 of said chapter be and the same is hereby amended by striking out the word June where it occurs in said section and inserting in lieu thereof the word August.

§ 7. TIME WHEN AUDITOR TRANSMITS RATE OF TERRITORIAL TAX.] That section 34 of said chapter be and the same is hereby amended by striking out the word June where it occurs in said section and inserting in lieu thereof the word August.

§ 8. TIME OF LEVYING COUNTY TAX.] That sections 35 and 36 of said chapter be and the same are amended by striking out

the word July where it occurs in said sections and inserting in lieu thereof the word September.

§ 9. TIME OF DELIVERING LIST TO COUNTY TREASURER.] That section 38 of said chapter be and the same is hereby amended by striking out the word October where it occurs in said section and inserting in lieu thereof the word November.

§ 10. WHEN TAXES BECOME DELINQUENT.] That section 53 of said chapter be and the same is hereby amended by striking out the word November where it occurs in said section and inserting in lieu thereof the word January.

§ 11. WHEN TAX BECOMES A LIEN.] That section 56 of said chapter be and the same is hereby amended by striking out the word October where it occurs in said section and inserting in lieu thereof the word November.

§ 12. TIME AFTER WHICH TREASURER SHALL RECEIVE TAXES.] That section 59 of said chapter be and the same is hereby amended by striking out the word November where it occurs in said section and inserting in lieu thereof the word January.

§ 13. PAYMENT OF TERRITORIAL FUNDS BY COUNTY TREASURERS.] That section 83 of said chapter be and the same is hereby amended by striking out the word November where it occurs in said section and inserting in lieu thereof, March and on the first Monday in September in each year.

§ 14. TIME FOR MAKING ANNUAL EXHIBIT.] That section 103 of said chapter be and the same is hereby amended by striking out the word October where it occurs in said section and inserting in lieu thereof the word November.

§ 15. TIME FOR COMMENCING ASSESSMENT.] That section one of chapter 49 of the session laws of 1879 be and the same is hereby amended to read as follows: The assessor shall in no case commence assessing before the first Monday in May of each year.

§ 16. DATE OF ASSESSMENT.] That section two of said chapter be and the same is hereby amended by striking out "15th day of February" where it occurs in said section and inserting in lieu thereof the words, first Monday in May; and by striking out the word January where it occurs in said section and inserting in lieu thereof the word April.

§ 17. SAME.] That section three of said chapter be and the same is hereby amended by striking out the word January

where it occurs in said section and inserting in lieu thereof the word May.

§ 18. CONCERNING PERSONS REFUSING TO VERIFY TO LIST.] That section 11 of chapter 28 of the Political Code be and the same is hereby amended by striking out the word May where it occurs in said section and insert in lieu thereof the word July.

§ 19. SEE CHAPTER 119.] That section nine of said chapter be and the same is hereby amended by striking out the word January where it occurs in said section and inserting in lieu thereof the word May.

§ 20. That all acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, February 19th, 1881.

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## CHAPTER 119.

### WHEN AUDITOR TO FORWARD LIST.

AN ACT to Amend an Act to Amend Chapter Twenty-eight of the Political Code and Chapter Forty-nine of the Session Laws of 1879, entitled, "Revenue" passed at the Session of 1881.

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

§ 1. WHEN AUDITOR TO FORWARD LIST OF NEW TAXABLE LANDS.] That section nineteen of an act to amend chapter twenty-eight of the Political Code and chapter forty-nine of the session laws of 1879, entitled, "Revenue," passed at the session of the Legislative Assembly of Dakota Territory of 1881, be and the same [is] hereby amended by striking out the words, "said chapter," where they first occur in said section and insert in lieu thereof the words, "chapter forty-nine of the session laws of 1879."

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

ENDORSED.—Received at Executive Office, February 23, at 4:45 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.*

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**CHAPTER 120.**

**UNCOLLECTABLE AND DELINQUENT TAXES.**

**AN ACT to Provide for the Collection of Delinquent Personal Taxes.**

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

§ 1. COUNTY TREASURER TO MAKE AND FILE LIST OF UNCOLLECTABLE TAXES.] If the county treasurer is unable for want of goods or chattels whereon to levy to collect by distress or otherwise, the taxes or any part thereof which may have been assessed upon the personal property of any person or corporation, or any executor or administrator, guardian, receiver, agent or factor, such treasurer shall file with the county clerk, on the first Monday of July following, a list of such taxes, with an affidavit of himself or deputy treasurer intrusted with the collection of such taxes, stating that he had made diligent search and inquiry for goods and chattels wherewith to make such taxes and was unable to make or collect the same, and such other facts as he shall deem of importance to the county commissioners. The county clerk shall present said list to the county commissioners at their first meeting then or thereafter in session, and the said board shall examine such taxes

so returnable and if they are satisfied such taxes or any part thereof cannot be collected, then they shall instruct the county treasurer to place the same on a list of taxes that cannot be collected, in a book provided for that purpose, and said treasurer shall thereupon be released from further liability for a failure to collect such tax or taxes; but if said board are satisfied that said taxes or any part thereof can be collected, they shall order the county treasurer to again proceed to collect the same, and it shall be his duty to again proceed to collect said taxes in the manner provided by law.

§ 2. PENALTY FOR FAILING TO COLLECT CERTAIN TAXES, ETC.] If any county treasurer shall neglect or refuse to collect any tax assessed on personal property when the same is collectable, or to file the delinquent list and affidavit as herein set forth and provided, he shall be held liable in his next settlement with the county commissioners for the whole amount of such taxes uncollected, and the same shall be deducted from his salary or fees and applied to the several funds for which they were levied.

§ 3. MILEAGE.] County treasurers shall be allowed for making demand for such taxes where no levy is made on property, (10) ten cents per mile for each mile necessarily and actually traveled, and when levy is made the fees now allowed by law, which fees and mileage shall be paid to the treasurer of that county by the person, corporation, executor, administrator, guardian, receiver, agent or factor from whom such tax or taxes are due.

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

Approved, March 5, 1881.

## Record of Conveyances in Unorganized Counties.

### CHAPTER 121.

AN ACT providing for the Recording of all Deeds, Mortgages, both Real and Personal, and other Instruments, required to be Recorded, which may be given on Property situated or belonging in any Unorganized County.

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

§ 1. CONVEYANCES IN UNORGANIZED COUNTIES WHERE TO BE RECORDED.] That the unorganized counties of the Territory in any judicial subdivision, are hereby attached to and made a part of the county where the court is held for such subdivision for the purpose of filing and recording all deeds, mortgages and other instruments, so long as such counties remain unorganized, and the filing and record of all such deeds, mortgages and other instruments heretofore made in the manner provided for in this act are hereby declared to be legal and valid.

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

Approved, February 25, 1881.

## Registration of Voters.

### CHAPTER 122.

AN ACT for the Registry of Electors and to Prevent Fraudulent Voting.

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

§ 1. BOARD OF REGISTRY. WHEN TO MEET.] That the persons authorized by law or appointed pursuant to any town or city ordinance to act as judges or inspectors in any town, city, or ward, or other election precinct in this Territory, shall constitute a board of registry for their respective towns, cities, wards, or precincts, and shall meet on Tuesday, two weeks preceding any general election, at 9 o'clock A. M., and proceed to make a list as hereinafter prescribed of all persons qualified and entitled to vote at the ensuing election in the election precinct of which they are judges or inspectors, which list when completed shall constitute and be known as the register of electors of said election precinct.

§ 2. REGISTRY LISTS—WHAT TO CONTAIN.] Said registers shall each contain a list of the persons so qualified and entitled to vote in said election precinct, alphabetically arranged, according to their respective surnames, so as to show, in one column, the name at full length, and in another column in cities and towns, the residence, by the number of the dwelling, if there be a number, and the name of the street or other location of the dwelling place of each elector. It shall be the duty of said board to enter in said lists the names of all persons residing in their election precinct whose name appears on the poll list kept in said precinct at the last preceding election in cities and towns, the number of the dwelling and name of the street or other location, if the same shall be known to or can be ascertained by such board, and for this purpose said board are authorized to take from the office in which they are filed, the poll lists made and filed by the judges or inspectors of such precinct at the election held next prior to the making of such register. In making such register the board shall enter thereon in addition to the names on the

poll list the names of all other persons who are well known to them to be electors in said precinct, or shall be proved to be electors by the oath of the person applying to be registered, or by the oath of some elector whose name has been already placed upon the poll list; and the names of all persons on the poll list who have died or removed from the precinct shall be omitted from the register. The said board shall complete as far as practicable the said register on the day of their meeting aforesaid, and shall make two copies thereof and certify the register and each of the copies to be a true list of the voters in their precinct so far as the same are known, within ten days thereafter; the said original list, together with the list taken from the office as aforesaid, shall be filed with said board and shall be kept by one of said judges or inspectors, and carefully preserved by him for their use on the day or days hereinafter mentioned for the revision and correction of the same. One copy of said list shall immediately after its completion, be posted in some public and conspicuous place, at or near where the last preceding election in said precinct was held, and be accessible to any elector who may desire to examine the same or make copies thereof. Any person who shall take down, tear down or deface or destroy any list so posted shall be deemed guilty of a felony and shall be punished by a fine not exceeding \$500, or by imprisonment in the penitentiary not exceeding five years.

§ 3. REGISTRY LIST IN NEW PRECINCT.] In case a new election precinct shall be formed by the organization of a new precinct or by division of any town, ward or precinct, or the incorporation of a city or town, the judges or inspectors of the election in the new precinct thus formed may make their registry of electors on the day prescribed by this act, in such manner as a majority of them may direct, and for this purpose may make a list or cause to be made a certified copy of the poll list or lists of the precinct or precincts in which said new precinct was situated, or they may dispense with such list or lists and proceed to make a register of electors from the best means at their command. Said lists shall only embrace the names of such persons as are known to them to be electors in their precinct, or proved to be such upon the oath of an elector whose name has already been entered upon

said register, or by the oath of the applicant; and said lists shall be preserved and a copy posted up as prescribed in the preceding section, and shall be revised and corrected in the same manner as other lists are corrected.

§ 4. SECOND MEETING OF BOARD.] The said board shall again meet on Tuesday of the week preceding the said election in their respective election precincts, at the place designated for holding the polls of election for the purpose of revising, correcting and completing said lists, and for this purpose they shall meet at 8 o'clock A. M. and remain in session until 8 o'clock P. M.

§ 5. LISTS—HOW MADE FOR FIRST ELECTION.] For the first election after the passage of this act the judges or inspectors in all election precincts may make the lists in the same manner as provided for new precincts in section three of this act.

§ 6. PROCEEDINGS OF BOARD, ETC.] The proceedings of said board shall be open, and all persons residing and entitled to vote in said precinct shall be entitled to be heard by said board in relation to corrections or additions to said register, and the judges or inspectors are empowered to administer oaths for this purpose. One of the lists so kept by the judges or inspectors as aforesaid, shall be used by them on the day or days of making corrections or additions for the purpose of completing the registry of the precinct or ward.

§ 7. REVISING LIST.] It shall be the duty of said board at their meeting for revising and correcting said lists, to erase therefrom the name of any person inserted therein who shall be proved, by the oath of two legal voters of said precinct, to the satisfaction of said board to be non residents of said precinct, or otherwise not entitled to vote in said precinct at the election then next to be held. Any elector residing in said precinct and entitled to vote therein may appear before said board and require his name to be recorded in said alphabetical list. Any person so requiring his name to be so entered on said lists shall make the same statement as to street and number thereof and where he resides, required by the provisions of this act, of persons offering their votes at elections, and shall be subject to the same penalties for refusing to give such information, or for falsely giving the same, and shall also be subject to challenge, either by the judges or inspectors, or

either of them, or by any other elector whose name appears on said alphabetical lists, and the same oaths may be administered by the judges or inspectors or other duly authorized person, as are now or may hereafter be provided in case of persons offering to vote at an election; and in case no challenge is made of any person requiring his name to be entered on said alphabetical list, or in case of challenge if such person make oath that would entitle him to vote in case of challenge at an election, then the name of any such person shall be added to the alphabetical poll list.

§ 8. RECEIVING VOTE FROM PERSON NOT ON THE LIST.] After said lists shall have been fully completed the said board shall within two days cause two copies of the same to be made, each of which shall be certified by them to be a correct list of the voters of their precinct so far as known, which said lists the said judges or inspectors shall carefully keep and preserve for their use on election day; and at the opening of the polls the judges or inspectors shall designate two of their number to check the name of every voter voting in such precinct whose name is on the register. No vote shall be received at any election in this Territory if the name of the person offering to vote be not on the said register, made on the Tuesday preceding the election, unless such person offering to vote shall furnish to the judges of the election his affidavit in writing, stating therein that he is an inhabitant of said precinct and resides therein, giving his place of residence and length of time he has so resided there, and also prove by the oath of a householder and registered voter of the precinct in which he offers to vote, that he knows such person to be an inhabitant of the precinct, giving his place of residence therein. The oath may be administered by one of the said judges of election of the poll where the vote is offered, or any other person authorized to administer oaths, but no person shall receive any compensation for administering said oath. Said oath shall be preserved and filed by the judges of election. Any person may be challenged and the same oaths required as now are or hereafter may be prescribed by law.

§ 9. DUTY OF CLERK OF ELECTION.] The clerks at each poll in addition to the duties now prescribed by law shall enter on the poll list kept by them, in columns prepared for that pur-

pose, opposite the name of each person voting, the same statement or minute heretofore required of the board in making the registry; but such entry is not to be made by them if the registry contains correctly the name and residence of such voter; and in all cases said clerks shall enter in a column opposite the name of each person not registered, the words, "not registered." And the clerks of the polls in case the name of such voter is not registered shall truly enter in the appropriate column of the poll list the name and residence as in other cases. Any person making a false statement as to his residence or dwelling place shall be deemed guilty of a misdemeanor and upon conviction, punished by a fine not less than \$200 nor more than \$500, or imprisonment at the discretion of the court.

§ 10. FILING REGISTER.] After the canvass of the votes the said register so kept and checked as aforesaid, shall within three days be filed with the county clerk of the county in which said precinct is situated, and shall be retained and carefully preserved as a public record.

§ 11. REGISTER TO REMAIN PUBLIC RECORD.] The registers shall at all times be open to public inspection at the county clerk's office or the judges' of election, without charge.

§ 12. COMPENSATION OF MEMBERS OF BOARD.] That the members of the board of registry shall receive the same compensation as is now or may hereafter be allowed by law, not to exceed two dollars per diem.

§ 13. BOARD HAVE POWER TO PRESERVE ORDER.] The said board shall have and exercise the same power in preserving order at their meetings under this act as are given to judges of election for preserving order on election day, and vacancies may be filled in said board in the same manner that vacancies of judges are now filled at elections.

§ 14. PENALTY FOR REPEATING, ETC.] Any person who shall cause his name to be registered in more than one election precinct, or who shall cause his name to be registered knowing that he is not a qualified voter in the precinct where said registry is made, or who shall falsely personate any registered voter, and any person aiding or abetting any person in any manner in either of said acts shall be punished for every and each offense by imprisonment in the territorial prison for not

less than two nor more than five years. If any member or officer of said board shall willfully violate any of the provisions of this act, or be guilty of any fraud in the execution of the duties of his office he shall be punished by imprisonment in the territorial prison not less than one nor more than five years.

§ 15. PROVISIONS OF THIS LAW SHALL APPLY ONLY TO CERTAIN SECTIONS.] The county clerks shall provide to the board of registry of the several precincts within their respective counties the necessary blank registers and blanks at the expense of their respective counties: *Provided, however,* That the provisions of this act shall only extend to and be in force in the counties of Lawrence, Pennington and Custer, and in those counties bordering on the Missouri river, except the counties of Bon Homme, Yankton, Clay and Union: *And provided,* That the provisions of this act shall apply to all villages, towns or cities containing a population of over three thousand persons, whether situated in the counties excepted by the provisions of this act or not.

§ 16. COUNTY MAY ADOPT THIS ACT BY VOTE.] That any other county may adopt the provisions of this act by a majority vote at any general election or special election called for this purpose: *And provided further,* In all elections of township, county, district or territorial officers or delegate to congress, all the territory situated in the same precinct with such city, town or village shall be included therein in the calculating the number of inhabitants, and for all purposes of registration as provided for in this act: *Provided,* That the county of Charles Mix be exempted from the provisions of this act.

§ 17. This act shall be in force and take effect from and after its passage and approval, and shall apply to any special election that may be held in case congress shall pass an act for the admission of this Territory into the Union as a state.

Approved, March 2, 1881.

## Removal of Officers.

### CHAPTER 123.

AN ACT to Amend Section 5, of Chapter 22, of the Political Code.

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

§ 1. COURT MAY SUSPEND OFFICER.] That section five of chapter twenty-two of the Political Code be amended by striking out the words, "If the cause be continued," in the first line of said section and inserting in lieu thereof the following: "At any time after the commencement of the action."

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

Approved, February 25, 1881.

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## Road Supervisors.

### CHAPTER 124.

#### COLLECTION OF ROAD TAXES.

AN ACT to Amend Section 67, of Chapter 29, of the Political Code.

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

§ 1. SUPERVISORS TO GIVE NOTICE.] That section sixty seven, of chapter 29, of the Political Code be and the same is hereby amended so as to read as follows: § 67. The road supervisors must, between the first days of April and December of each year, give at least twenty-four hours notice to all persons subject to road labor, as aforesaid, to perform the work necessary on the public highways within their respective dis-

trict, and such notice shall specify the time when and place where they are to appear for that purpose.

1. **PENALTY FOR NEGLECT TO PAY TAX.]** Every person subject to labor on the public highways, who has been duly notified to work thereon, as hereinbefore provided, who shall not commute or pay the sum of one dollar and fifty cents, as provided by section sixty-six of chapter twenty-nine of the Political Code, and who shall refuse or neglect, without good cause, to appear as above provided, shall for every day's refusal pay the sum of one dollar.

2. **SUPERVISOR TO MAKE COMPLAINT.]** Every supervisor of highways may within six days after any person shall become liable for the payment of any sum of money under the provisions of this act, unless a satisfactory excuse be rendered to him by the person so liable, make a complaint in writing and on oath to some justice of the peace of the county, stating the default, neglect, refusal or other cause by reason of which such person became so liable, which complaint shall be in the name of the Territory of Dakota as plaintiff, and the party liable for such tax as defendant, and no fees of officers, costs or expenses in court in enforcing the provisions of this chapter shall be paid by or be a charge upon the Territory or county, but shall be collected from the defendant.

3. **DUTY OF JUSTICE.]** The justice of the peace to whom such complaint shall be made shall forthwith issue a summons, directed to the defendant, in the form provided in the Justices' Code in a summons for relief, returnable in not less than two and not more than six days; and it shall be the duty of any sheriff or constable to whom it is delivered to forthwith serve the same.

4. **PROCEEDINGS TO COLLECT TAX.]** On the return day of such summons, or within such reasonable time thereafter as the justice shall allow, if no sufficient cause be shown to the contrary, the justice shall render a judgment in favor of the Territory of Dakota against such person for the sum for which such person shall have become liable to pay on account of the default, neglect or other delinquency mentioned in the complaint and for the delinquent tax, with the cost of the prosecution, and shall forthwith issue an execution under his hand directed to the sheriff or any constable of the county, as pro-

vided in the Justices' Code, and returnable at the time prescribed therein, commanding him to levy the amount of such judgment, including the costs of the proceedings, of the goods and chattels of such defendant, and nothing shall be exempt from such execution except the absolute exemptions.

5. SAME.] The sheriff or constable to whom such execution shall be delivered, shall forthwith proceed to execute the same, and he shall pay the moneys collected thereon to the justice of the peace who issued the execution, who shall pay the same to the supervisor who entered the complaint, to be by him expended in improving the roads and bridges in his district.

6. SUPERVISOR SHALL NOT EXCUSE PAYMENT.] The acceptance by a supervisor of an excuse for a refusal or neglect shall not in any case exempt the person excused from paying for or working the tax for which he shall have become liable during the year.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, February 19, 1881.

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## Reports of Territorial Officers.

### CHAPTER 125.

#### PRINTED REPORTS OF TERRITORIAL OFFICERS.

WHAT REPORTS TO BE PRINTED.] *Resolved:* That there be ordered printed for the use of the members of this legislative body, the Council concurring, 500 copies of the report of the trustees and warden of the Insane Asylum and 500 copies of each of the reports of the territorial auditor and territorial treasurer, and that the same be paid for out of appropriation for printing.

Approved, February 10, 1881.

## School Law.

### CHAPTER 126.

#### PROVIDING FOR PUBLICATION OF SCHOOL LAW.

AN ACT Authorizing the Publication of Three Thousand (3,000) copies of the Public School Laws of Dakota Territory and Appropriating Funds for the Payment of the same.

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

§ 1. SECRETARY AUTHORIZED TO PROCURE PUBLICATION.] That the secretary of the Territory is hereby authorized and it is made his duty to contract for the publication and purchase of three thousand (3,000) copies of the public school laws of Dakota Territory, as they shall exist at the close of the present session of the legislature. Said laws shall be printed in pamphlet form on book paper with good paper covers, and the same shall be properly indexed. The entire expense of printing and publishing said laws in the manner above prescribed, including the expense of indexing the same, shall not exceed the sum of one hundred and fifty (\$150) dollars.

§ 2. SUPERINTENDENT OF PUBLIC INSTRUCTION TO DISTRIBUTE LAW.] It is the further duty of the secretary of the Territory, as soon as the printing and publication of said laws is completed, to hold the same subject to the order of the territorial superintendent of public instruction, who shall procure of said secretary and mail or cause to be sent a copy thereof to each public school officer within the Territory. It shall be the duty of such school officers to preserve said laws and turn the same over to their successors at the close of their term of office.

§ 3. APPROPRIATION.] There is hereby appropriated out of the territorial treasury the sum of one hundred and fifty (\$150) dollars to enable the said secretary to make such contract and purchase.

§ 4. ACCOUNT TO BE AUDITED.] The auditor of the Territory is hereby authorized to audit and allow the accounts of the

parties furnishing such publication, when such accounts have been approved by the secretary, and he shall issue his warrant upon the territorial treasurer for the amount of such accounts, which warrants shall be paid by the territorial treasurer whenever there are funds in the treasury applicable thereto.

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

Approved, March 3, 1881.

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## Short-Hand Reporters.

### CHAPTER 127.

AN ACT to Amend an act entitled, "An act Authorizing the Appointment of Short-hand Reporters for the District Courts of this Territory.

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

§ 1. CLAUSE EXEMPTING CERTAIN COUNTIES, REPEALED.] That section seven (7) of an act entitled, "An act authorizing the appointment of short-hand reporters for the district courts of this Territory," approved February 14th, 1879, exempting the counties of Bon Homme, Clay, Lincoln and Union from the operation of said act be and the same is hereby repealed.

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

Approved, February 11th, 1881.

## Supreme Court Reports.

### CHAPTER 128.

#### SECOND VOLUME.

AN ACT to Provide for the Purchase of the 2nd Volume of Dakota Reports.

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

WHEREAS: The Second Volume of Dakota Supreme Court Reports, reported by E. G. Smith, reporter of said court, are about to be published in book form; and

WHEREAS: The Territory of Dakota has received from the several States and Territories of the United States for several years past the court reports and public documents of such States and Territories, which are now a part of the public library of this Territory; and

WHEREAS: It is just and proper that the Territory of Dakota should reciprocate the courtesies shown her by contributing to the libraries [of] her sister Territories and the several States a volume of the reports of her supreme court decisions and should also furnish copies to those of her public officers whose duties would be aided thereby; Therefore,

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

§ 1. AUTHORITY TO PURCHASE.] That the territorial librarian of the Territory of Dakota is hereby authorized to purchase of the publishers of the second volume of Dakota Reports eighty volumes thereof, at a price not exceeding five dollars per volume. *Provided, however:* That if he can not obtain eighty volumes of said reports at the price herein stated, then he shall not purchase any of said reports.

§ 2. PAYMENT.] That said books shall be well bound in law sheep and shall be delivered to the said librarian, who shall thereupon approve the publisher's account for eighty copies, at the price agreed upon, not exceeding the amount named in section 1, and when said account so approved shall be presented to the auditor, he is authorized and it is made his

duty to audit said account and to issue to said publisher a territorial warrant for said account, and the territorial treasurer is authorized to pay said warrant the same as other warrants drawn upon the territorial treasurer.

§ 3. APPROPRIATION.] There is hereby appropriated out of any moneys in the territorial treasury the sum of four hundred dollars to defray the expense of such purchase.

§ 4. HOW DISTRIBUTED.] That it is hereby made the duty of the librarian of the Territory, upon receiving said book, to distribute them as follows, to-wit: One copy to each of the justices of the supreme court of the Territory; one copy to each of the district attorneys of Dakota Territory; one copy for the U. S. attorney for Dakota; also to transmit one copy by mail to the public library of each State and organized Territory in the United States, that have exchanged or will exchange with this Territory; also one copy to the library of congress; and one copy to the library of the supreme court of the United States; and one copy to the attorney general of the United States; and the remaining copies shall be disposed of as provided by law.

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

Approved, February 25, 1881.

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## Townships.

### CHAPTER 129.

#### JURISDICTION OF JUSTICES.

AN ACT Defining the Jurisdiction of Township Justices of the Peace.

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

§ 1. JURISDICTION OF TOWNSHIP JUSTICES.] That all justices of the peace of any township of this Territory shall have the

same power and jurisdiction in their respective counties as is now or hereafter may be conferred upon justices of the peace by law and by an act, entitled, "An act to establish a Code of Procedure in courts of justices of the peace, and to limit the jurisdiction of the same," approved February 13th, 1877, and all amendments made or which may be hereafter made to said act.

§ 2. PROCEEDINGS—HOW GOVERNED.] That the civil and criminal proceedings before all justices of the peace of any township shall be governed and controled by an act, entitled, "An act to establish a Code of Procedure in courts of justices of the peace and to limit the jurisdiction of the same," approved February 13th, 1877, and the Code of Criminal Procedure and all amendments made or which may be hereafter made to said act and codes.

§ 3. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. That this act shall be in force and effect from and after its passage and approval.

Approved, March 1, 1881.

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## CHAPTER 130.

### ORGANIZATION, CANVASS OF VOTE AND DUTY OF ROAD SUPERVISORS.

AN ACT to Amend certain Sections in Chapter Fifty-nine (59) of the Laws of 1879, entitled "An Act providing for the Organization of Civil Townships and the Government thereof," approved, February 18, 1879.

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

§ 1. POWER OF ELECTORS.] That section 7 of chapter 59 of the laws of 1879, be amended so as to read as follows: "§ 7. The electors of each township shall have power at the annual election to elect such officers for the township as are by law required to be chosen, and shall be elected and named upon a separate ballot at the general election."

§ 2. NOTICE TO PERSONS ELECTED.] That section 10 of chapter 59 of the laws of 1879, be amended so as to read as follows: "§ 10. The township clerk shall within ten days after the canvass of the votes as provided in the next section, transmit to each person elected to any office in the township a certificate of his election: *Provided, however,* That at the first election for the election of township officers the judges and clerks of the election shall immediately after the canvass of votes as provided in the next section, transmit to each person elected to any office in the township a certificate of his election, signed by the judges and clerks of such election: *And provided further,* That in case of a tie vote for any office it shall be determined by the township clerk in the same manner as provided for settling tie votes in county officers."

§ 3. CANVASS OF VOTE AT FIRST ELECTION.] That section 11 of chapter 59 of the laws of 1879, be amended by adding to the end of said section the following words: "*Provided, however,* That at the first election for township officers in any township the judges and clerks of elections shall canvass the vote under the provisions of this section."

§ 4. QUALIFICATION.] That section 12 of chapter 59 of the laws of 1879, is hereby amended so as to read as follows: "§ 12. All township officers who are not required by section 13 of this act to give bonds shall qualify by oath of office, on the back of their appointment, commission or certificate of election, in writing, an oath to support the constitution of the United States and the act organizing this Territory, and to faithfully and impartially perform all the duties of their office (naming it fully) to the best of their knowledge and ability, which oath shall be filed with the township clerk and within the period required for county officers to qualify. Said oath may be taken and subscribed before the township clerk or any other officer legally qualified to administer oaths."

§ 5. DUTY OF ROAD SUPERVISORS.] That section 64 of chapter 59 of the laws of 1879, be amended so as to read as follows: "The *owners* [overseers] of the highways in each district shall give at least three days' verbal personal notice of the day and place designated to work the highways to all persons subject to work thereon, or who are charged with a highway and poll tax, residing in his district; and all persons so notified must

meet said overseer at such time and place, with such tools, implements and teams as the overseer may designate, and shall labor diligently under the direction of the overseer, per eight hours each day and, if requested by the *owner* [overseer], shall continue to work from day to day as above stated until he shall have worked out all the tax charged to him on the list of the *owner* [overseer] at the rate as provided in section 59 of this chapter, and for such labor performed the overseer shall give to the person a receipt which shall be evidence of the payment of said tax to the amount specified in the receipt."

§ 6. CLERKS' FEES.] That all township clerks shall receive two dollars for each day necessarily engaged in the discharge of the duties of his office and in addition thereto such fees as are now or hereinafter may be provided by law.

§ 7. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 8. That this act shall be in force and effect from and after its passage and approval.

Approved, February 25, 1881.

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## CHAPTER 131.

### PAYMENT OF FUNDS FROM COUNTY.

AN ACT to amend Section 50 of Chapter 59 of the Session Laws of 1879, in Regard to the Time of Paying over Township Funds by the County Treasurers.

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

§ 1. TIME FOR PAYMENT OF FUNDS TO TOWNSHIP.] That section 50 of chapter 59 of the session laws of 1879, be amended by striking out in line 2 the words "April and October," and in lieu thereof insert the words "April, July, October and January," and in line 7 of said section strike out the words "May and November," and in lieu thereof insert the words "May, August, November and February."

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

Approved, March 3, 1881.

## Taxation of Telegraph Companies.

### CHAPTER 132.

AN ACT to Provide for the Payment of Taxes by Telegraph Companies and Granting the Right and Power to use Highways and Roads to Telegraph Companies.

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

§ 1. TAX.] The owners of any telegraph line constructed and in operation, or that may hereafter be constructed and operated within the limits of this Territory, excepting only lines owned by the United States government, shall pay to the Territory an annual tax of thirty (30) cents per mile for every mile of route occupied, in lieu of all other taxes, which shall be paid in January of every year to the territorial treasurer.

§ 2. TAX A LIEN—LINE MAY BE SOLD.] This Territory shall have a lien upon any line constructed and in use as aforesaid, and all its appurtenances for all taxes which may accrue to the Territory by virtue of the foregoing section; and in case the tax in whole or in part shall not be paid by the first day of February of every year, it shall be the duty of the territorial treasurer to advertise such line for sale for the amount of such tax remaining unpaid, in some newspaper published at the seat of government, by giving three weeks previous notice, and to sell the same accordingly for the amount of tax and interest and charges of sale, provided the same shall not be paid before the time of sale, and the surplus money, if any, shall be paid to the owner or owners of said line, after deducting the expenses of advertising and selling the same.

§ 3. RIGHT OF WAY GRANTED.] There is hereby granted to the owners of any telegraph line owned and operated in this Territory, the right and power to use the public roads and highways in this Territory, on the line of their route, for the purpose of erecting posts or poles on or along the same to sustain the wires or fixtures: *Provided*, That the same shall be so located as in no way to interfere with the safety or con-

venience of ordinary travel on or over the said roads or highways.

§ 4. All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

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

Approved, March 5, 1881.

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## Territorial Treasurer.

### CHAPTER 133.

#### SALARY.

AN ACT to amend Section Three (3), Chapter Thirty-nine (39), of the Political Code.

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

§ 1. SALARY OF TERRITORIAL TREASURER.] That section three (3) of chapter thirty-nine (39) of the Political Code, be amended to read as follows: "§ 3. The salary of the territorial treasurer shall be twelve hundred dollars per annum, payable quarterly. That he give a bond of fifty thousand dollars, with good and sufficient sureties, to be approved by the governor."

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

Approved, March 1, 1881.

## Towns and Cities.

### CHAPTER 134.

#### JURISDICTION OF JUSTICES.

AN ACT to amend Section Sixty-two (62) of Chapter Twenty-four of the Political Code, entitled "Incorporation of Towns and Cities."

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

§ 1. JURISDICTION OF JUSTICES.] That section sixty-two of chapter twenty-four of the Political Code be, and the same is, hereby amended to read as follows: "§ 62. Justices of the peace of any town heretofore or hereafter organized *under* under the provisions of said chapter twenty-four, shall have exclusive jurisdiction to hear and determine all offenses against the ordinances of such town, and concurrent jurisdiction with all other justices in all civil cases and in all criminal cases for offenses against the laws of the Territory, committed within the county where such town is situated; and whenever complaint shall be made to the justice of the peace of such town, upon oath or affirmation of any person competent to testify against the accused, that an offense has been committed of which such justice of the peace has jurisdiction, said justice of the peace shall forthwith issue a warrant for the arrest of the offender, which warrant shall be served by the marshal of the town, the sheriff or any constable of the county, or any person specially appointed by the justice for the purpose, and in all preliminary examinations before such justice he shall be governed by the Code of Criminal Procedure, and in all trials before such justice for offenses against the Territory he shall be governed by the Justices' Code."

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

Approved, February 17, 1881.

## Townsites.

### CHAPTER 135.

#### TOWNSITES LOCATED ON GOVERNMENT LANDS.

AN ACT prescribing Rules and Regulations for the Execution of the Trust arising under the Act of Congress, entitled "An Act for the Relief of the Inhabitants of Cities and Towns, upon the Public Lands," approved, March 2, 1867, and Acts amendatory thereto.

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

§ 1. WHO MAY MAKE ENTRY OF TOWNSITE.] That whenever any portion of the public lands of the United States have been or shall be settled upon and occupied as a townsite, and therefore not subject to private entry under the agricultural pre-emption laws, it shall be lawful and the duty, whenever requested by a majority of the occupants or owners of the lots within the limits of the town, for the corporate authorities of the town, if incorporated, and if not incorporated, then for the judge of the probate court of the county in which such town may be situated, to enter at the proper land office the land so settled upon and occupied, and hold the same in trust for the several use and benefit of the occupants thereof, and those holding by deed or otherwise, according to their respective interests.

§ 2. MONEYS—HOW RAISED TO PAY ENTRY FEE.] If at the time the petition is presented as provided for in the preceding section, there is not in the treasury of the town moneys sufficient to pay for the land settled upon and occupied, the corporate authorities or the probate judge, as the case may be, may raise by subscription or otherwise, sufficient funds to pay for said land and costs of entering the same, and any and all sums so advanced for such purpose shall be repaid in the manner provided for in section five (5.)

§ 3. DISPOSITION OF TOWN PROPERTY.] When the corporate authorities of any city or town, or the judge of the probate court of any county in this Territory, in which any city or

town may be located, shall have entered at the proper land office the land or any part thereof so settled and occupied as the site of such city or town, pursuant to and by virtue of the act of congress of the United States, entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved, March 2, 1867, and acts amendatory thereto, it shall be the duty of such corporate authorities or judge of the probate court, his or their successors, to dispose of the trust so created and conferred by said act of congress in the manner hereinafter specified.

§ 4. PARTY MAKING ENTRY TO TRANSFER TO CLAIMANTS.] Any such corporate authorities or judge of the probate court holding the title to any such lands in trust as declared in said act of congress shall, subject to the provisions of this act, by a good and sufficient deed of conveyance, grant and convey the title to each and every block, lot, share or parcel of the same to the person, persons, associations or corporations, who shall occupy or possess or be entitled to the right of possession or occupancy thereof, according to the several rights and interests of the respective claimants in or to the same, as they existed in law or equity at the time of the entry of such lands, or to the heirs or assigns of such claimants. Every such deed of conveyance made by such corporate authorities or judge of the probate court pursuant to the provisions of this act, shall be so executed and acknowledged as to admit the same to be recorded.

§ 5. EXPENSES OF ENTRY AND CLAIMS—HOW TREATED.] Immediately upon making the entry, or passage of this act, if the lands have already been entered, and during the sixty days thereafter, such corporate authorities or probate judge shall proceed to itemize and pass upon the expenses of procuring said entry to be made, including the moneys paid at the land office for such entry, the costs of surveying and platting the townsite, of attorney's fees, witness fees, recording plat, and all other expenses, necessary and incident to procuring the entry and perfecting the title, and for this purpose shall give notice to all persons having any claims for moneys advanced or services rendered, to present and file a certified statement of the same within said sixty days, such notice to be given promptly after making of the entry, or after the passage of

this act, if the entry has been already made, and to be by publication for three weeks in some newspaper published in the county wherein the townsite is located, or if none be so published, then in the newspaper published nearest thereto. And any person having or making any such claim, who shall at the expiration of said sixty days have failed to file such verified statement of account, shall be thereafter barred from presenting the same or recovering thereon. Upon the receipt of such verified statements of accounts, they shall be duly filed by the said corporate authorities, or judge of the probate court, and either allowed, rejected or allowed in part, as in the judgment of such corporate authorities or judge of the probate court may be just and right, due notice of such allowance, rejection or allowance in part to be at once given to the person having filed the verified statement. Any person filing such verified statement, or any lot owner feeling aggrieved at the decision of such corporate authorities, or judge of the probate court making such allowance, rejection or allowance in part of any claim so filed may, within thirty days after the decision, appeal therefrom to the district court of the district wherein such city or town may be located. Such appeal to be taken upon notice to such corporate authorities, or judge of the probate court, in the same manner and subject to the same restrictions as appeals from the board of county commissioners.

§ 6. PUBLICATION OF NOTICE OF ENTRY AND CLAIMS AWARDED.] Immediately upon the expiration of sixty days after the first publication of said notice as hereinbefore provided, at the proper land office, the corporate authorities, or judge of the probate court entering the same, his or their successors, shall give public notice thereof by publishing such notice in a newspaper published in the county in which such city or town shall be situated—or in case there shall be no newspaper published in such county, then in the newspaper published nearest the said city or town; and in the latter case where there is no newspaper published in said county, copies of said notice shall also be posted in not less than ten conspicuous places within the limits of said county. Such notice shall be published not less than once a week for six consecutive weeks, and shall contain an accurate description of the lands entered

as the same is stated in the certificate of entry, and shall also contain a statement of the several amounts awarded and allowed for the expenses of procuring the entry, and which will be assessed against the land constituting the townsite in executing the deeds therefor.

§ 7. Such notice provided for in section 4 shall direct that each and every person, association or corporation claiming to be an occupant, or to have, possess or be entitled to the right of possession or occupancy of such lands or any lot, share or parcel thereof, shall, within ninety days from the date of the first publication or posting of such notice, in person or by his, her or their, or its duly authorized agent or attorney, sign a statement in writing containing an accurate description of the particular lot, lots, parcel or parcels of land in which he, she, they or it, claim to have an interest; and the specified right, interest or estate so claimed therein, the character and value of the improvements thereon, and how occupied or possessed by such claimant, and for how long a time, and any other matter or thing illustrating or supporting such claimant's right to a deed of the tract so described. Such statement to be verified by the affidavit of the party or parties signing the same.

§ 8. STATEMENTS OF CLAIMANTS TO BE RECORDED.] The statement of the claimant provided for in the preceding section shall, together with the accompanying affidavits, be delivered to the said corporate authorities, or judge of the probate court, within the time specified in said notice, and shall be by him or them filed and an abstract of the contents thereof, with name of claimant and date of filing entered in a well bound book, to be kept for such purpose, which shall be known as "The Record of Claimant's Statements." And all persons failing to furnish such statement as herein required within the time specified in said notice, except minors and insane persons, shall be forever barred of the right of claiming or recovering such lands or any interest or estate therein, or any part or parcel thereof.

§ 9. WHERE CLAIMS CONFLICT.] Should any one or more persons, associations or corporations claim adversely the title to any lot or lots, parcel or parcels of land within the boundaries of such city or town, the party in possession, or if nei-

ther party be in actual possession, then the party first filing his application shall be *prima facie* entitled to a deed of conveyance, and the party or parties claiming adversely shall, within said ninety days after the first publication of the notice provided for in section four of this act, file with the corporate authorities, or judge of the probate court, a sworn statement as provided in section six of this act, and at the same time a notice that he, she or it contests the statement and application for deed hitherto made, and expects at once to begin an action in the district court to determine his, her or its right to the property; whereupon the corporate authorities, or judge of the probate court, must suspend action on such disputed lot or parcel of ground, until a proper certificate be furnished that the dispute has been decided or abandoned. Such party or parties claiming adversely, and having filed such notice of contest, must within ten days thereafter begin action in the district court for the purpose of determining the rights of all parties, in which action all persons claiming adversely to the plaintiff or plaintiffs may be joined as parties defendant, and if not so joined shall have the right to intervene. For the purposes of this section an action shall be deemed begun when a complaint has been filed in the office of the clerk of the court and a summons placed in the hands of a sheriff for service: *Provided*, That personal service must be made or service by publication begun within sixty days thereafter. Upon the presentation of the clerk's certificate that no complaint has been filed and no action begun in accordance with the provisions of this section, the party aforesaid having the *prima facie* right shall be entitled to a deed of conveyance; and in case of action begun, the party recovering therein shall be entitled to a deed of conveyance, upon presentation of a certified copy of the final judgment or decree of the court in such action, with the corporate authorities, or judge of the probate court. Upon receiving the certificate aforesaid or certified copy of judgment or decree, the same shall be filed and an abstract of the contents entered in the Record of Claimant's Statements; and the said corporate authorities, or judge of the probate court, shall thereupon execute deeds of conveyance to the party or parties entitled to receive the same. All persons except minors and insane persons failing to file their notice of contest, and to bring their action

within the time herein prescribed, shall be thereafter forever barred from setting up or asserting any claim, right or title to such lot or lots, parcel or parcels of land so adversely claimed.

§ 10. EXTENT OF GROUND THAT MAY BE CLAIMED.] The amount of ground which any one claimant shall be entitled to receive a deed for in a single tract, under the provisions of this act, unless said claimant or his grantors was in the actual peaceable possession of the same prior to its entry as herein provided for and had improved the same and is still in the occupancy thereof, may equal but not exceed two acres in extent, provided that such ground be exclusively occupied by, or in the possession of such claimant and have improvements thereon of not less than \$200 in value. Such claimant shall also be entitled to a deed for each additional lot not exceeding in area twenty-five hundred square feet on which he may have substantial improvements of not less than \$100 in value. When any claimant shall make application for a deed to more than one tract or parcel, he shall file in addition to his own affidavit, as required by this act, the affidavits of at least two disinterested witnesses, showing the notice, character and actual cash value of the improvements upon such additional lot or lots so claimed.

§ 11. CLAIMANT TO PAY CERTAIN EXPENSES.] Each person shall, upon filing an applicant's statement, as herein provided, be required to pay to the said corporate authorities or judge of the probate court, his proper and due proportion of the money lawfully expended in perfecting the title and procuring the entry of said land, including all streets, alleys, public grounds and parks, and all expenses necessarily incurred in making the survey and plat, for recording plat and publishing notices as required by this act, such proportion to be determined by the relation which the value, extent and area of such claimant's land bears to the whole amount of land claimed during the 90 days, and in addition thereto, the sum of two dollars for the principal tract claimed and fifty cents for each additional lot of 2,500 square feet claimed by the same person or persons, association or corporation, as a fee for executing the trust, taking affidavits, filing and abstracting statements and affidavits, and executing and acknowledging the deed as required by this act, which charges

shall be in full payment for all expenses attending the execution of the trust. In case of appeals provided for in section three of this act, the sum of one dollar shall be paid for certified copy of statement of account filed and certificate of decision and award made and pending such appeal, and the review by the district court of any award or allowance of claims for expenses in procuring the entry of land as provided for in the third section of this act, the corporate authorities or judge of the probate court must in making and apportioning expenses, take care that their estimate be sufficient to meet the same and any possible increase made by the appellate tribunal. Any surplus resulting from such estimate to be applied as herein provided. In case of any contest and deposit of money as in this section provided by both parties, the corporate authorities or judge of the probate court, shall after final judgment and decree, refund to the unsuccessful party or parties all money so advanced by such party or parties, except the sum of one dollar, which shall be retained as fees for taking and filing affidavits, statements, notice of contest, certified copy of decree, etc.

§ 12. DEEDS TO BE GIVEN.] After the expiration of ninety days from the date of the first publication of the notice required by section four of this act, the corporate authorities or judge of the probate court shall proceed to award the lot or lots, parcel or parcels of land as provided in this act, and for that purpose shall, as soon as practicable, and as near as practicable in the order of the time of the filing of claimant's statements, examine each and every claim, read proofs filed and hear additional testimony if deemed advisable, and if the claim shall be found to comply with the provisions of this act, and no adverse claim and notice of contest shall have been filed, the said corporate authorities or judge of the probate court shall proceed forthwith to make such claimant or claimants a good and sufficient deed of conveyance for such lot or lots, or parcels of land so claimed.

§ 13. UNCLAIMED PROPERTY—HOW DISPOSED OF.] When any lots or parcels of land within the limits of any city or town shall remain unclaimed, after the expiration of the time allowed by this act for the filing of claimant's statements, it shall be the duty of the corporate authorities or judge of the

probate court to convey the lots or parcels of ground so remaining unclaimed by good and sufficient deed to the board of education of said city or town, if there be such a body qualified to take, to be taken and held by such board in trust for school purposes. And if there be no such board of education legally authorized to take and hold real property, then the said corporate authorities or judge of the probate court shall hold the said lots or parcels of land so remaining unclaimed in trust for school purposes in the city or town wherein such lots or parcels of land are located, such trust to be administered under the direction of the district court and for the best interests of the people of the city or town aforesaid, such unclaimed land to be sold under such rules and regulations as may be made from time to time by the party or parties directing the trust. *Provided:* That the land shall be disposed of in tracts not exceeding an acre in area to any one person and all such sales shall be approved by the district court. In case there shall be found any surplus on hand over and above receipts for fees and award for expenses, arising from sales and conveyances of the lots as provided in section ten of this act, then such surplus shall, so soon as ascertained, be turned over to such board of education for school purposes, or if there be no such board, then to the county treasurer to be credited to the school fund of the school district in which such city or town is located.

§ 14. WHEN TERM OF OFFICE OF PARTY MAKING ENTRY EXPIRES.] Whenever the term of office of any corporate authorities or judge of the probate court having made entry of a town site shall expire, or he or any one or more of said corporate authorities shall resign or be removed from office, he or they shall turn over all books and papers relative to such entry to his or their successor or successors in office, with full report of the condition of the trust and receipts and disbursements thereunder and thereafter the said trust shall be executed in every particular by such successor or successors. Any willful violations of the provisions of this act by the corporate authorities or judge of the probate court shall be held and considered a misdemeanor; any such corporate authorities or judge of the probate court, willfully making a deed to any party not entitled to receive the same shall be guilty of a misdemeanor; and any such corporate authorities or judge

of the probate court willfully misappropriating funds received by them in the execution of this trust shall be held guilty of embezzlement.

§ 15. Chapter twenty-five of the Political Code, entitled "Townsites," is hereby repealed.

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

ENDORSED.—Received at Executive Office, February 16, at 5:00 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.*

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## Usury.

### CHAPTER 136.

AN ACT to repeal Section 427 of the Penal Code in Certain Counties.

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

§ 1. CERTAIN COUNTIES EXEMPT FROM USURY LAW.] Section 427 of the Penal Code is hereby repealed in the counties of Lawrence, Pennington, Custer, Mandan and Forsythe.

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

ENDORSED.—Received at Executive Office, February 15, 1881, at 1:40 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.*

## Vacancies in Office.

### CHAPTER 137.

#### RESIGNATIONS.

AN ACT to amend Section One of Chapter Twenty-two of the Political Code.

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

§ 1. RESIGNATION OF ELECTIVE COUNTY OFFICERS.] That subdivision four of section one of chapter twenty-two of the Political Code be, and the same is, hereby amended to read as follows: "4. Of all elective county officers by filing or depositing such resignation, in writing, in the office of the county clerk, except that of county clerk, which shall be filed or deposited with the board of county commissioners, which resignations, unless a different time is fixed therein, shall take effect upon such filing or deposit."

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

Approved, February 12, 1881.

## Washington Monument.

### CHAPTER 138.

#### MEMORIAL BLOCK.

AN ACT to Provide for a Memorial Block to be placed in the Washington Monument.

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

§ 1. MEMORIAL BLOCK TO BE PREPARED. DIMENSIONS.] That a memorial block of red granite or quartzite from the Dell Rapids quarry in Minnehaha county, be provided for the purpose of being placed in the Washington National Monument in the District of Columbia. That said block shall be of the dimensions following: in length four feet, in breadth two feet and six inches, in thickness six inches, and shall have engraved thereon, upon a polished face, the coat of arms of the Territory of Dakota as prescribed for the great seal of the Territory.

§ 2. APPROPRIATION.] The sum of two hundred dollars or so much thereof as may be needed, is hereby appropriated out of the funds of the Territory not otherwise appropriated, for the purpose of defraying the expenses of procuring said memorial block and forwarding the same to the city of Washington, and the governor is hereby authorized to appoint a suitable person to procure the same and superintend its proper completion; and when so completed and forwarded, the territorial auditor shall issue his warrant for the cost of the same, not exceeding two hundred dollars, upon the certificate of the governor, stating that the same has been completed, and the actual cost of the same.

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

Approved, March 3, 1881.

## Warrants.

### CHAPTER 139.

#### INTEREST.

AN ACT to amend Section Fifty-three, of Chapter Twenty-one, of the Political Code.

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

§ 1. INTEREST ON COUNTY WARRANTS.] That section fifty-three of chapter twenty-one be and the same is hereby amended to read as follows: § 53. All county orders hereafter drawn by the proper authorities of any county shall, after having been presented to the county treasurer of the respective counties and by him endorsed, "Not paid for want of funds in the treasury," from said date, draw interest at the rate of seven per cent. per annum.

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

Approved, February 21, 1881.

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### CHAPTER 140.

#### PAYMENT OF REGISTERED WARRANTS.

AN ACT to amend Section Four (4), of Chapter Fifty (50), of the Political Code, entitled, "Registration of Warrants."

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

§ 1. DUTY OF COUNTY TREASURER.] That section four (4), of chapter fifty, of the Political Code, entitled, "Registration of warrants," be and the same is hereby amended to read as follows: It shall be the duty of every such treasurer to set

aside the money for the payment of each registered warrant in the order of its registration, as soon as money sufficient for the payment of such warrants is received to the credit of the particular fund upon which such warrant is drawn, and the interest upon such warrant shall thereupon cease, and such treasurer shall by mail immediately notify the person in whose name the same is registered and shall pay over to the party holding such warrant such sum when called for.

§ 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

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

Approved, March 3, 1881.

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## World's Fair.

### CHAPTER 141.

WHEREAS, The Senate and House of Representatives of the United States have passed an act to provide for celebrating the one hundredth anniversary of the treaty of peace and the recognition of American independence by holding an International Exhibition of arts, manufactures and the products of the soil and mines, in the City of New York, in the year 1883, and to that end have created a body corporate, known as the United States International Commission, composed of many of the best known and most highly esteemed gentlemen on this continent, of which commission Ex-President Grant is the president; and

WHEREAS, The Territory of Dakota contains within her borders not only a vast area and untold stores of the products of the soil and mines, but also millions of acres of fertile lands as yet unoccupied; and

WHEREAS, It has been proven in the past that such exhibitions as the one now proposed result always in attracting the

eyes of the world and thousands of settlers to those localities that are the most generally represented; and

WHEREAS, The International Commission of the United States, at its recent meeting in New York, determined that each State or Territory shall erect such buildings as it may require to properly exhibit its products and shall place the same, together with its exhibits, in direct charge of a sub-commission from such State or Territory; therefore

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

§ 1. COMMISSIONERS TO BE APPOINTED.] It shall be the duty of the governor, immediately after the passage of this act, to appoint five citizens of this Territory, representatives of the various sections and interests, who shall prepare and control any and all exhibits made by and have exclusive charge of all the interests of this Territory at the United States International Exhibition, in the City of New York, in the year 1883, and such persons so appointed, together with the governor of the Territory, who shall be ex-officio a member and chairman thereof, shall be known as the Board of Commissioners of the Territory of Dakota to the International Exhibition of 1883.

§ 2. BOARD OF COMMISSIONERS.] Such commissioners shall, within ninety days after their appointment, notify the governor, in writing, of their acceptance of the trust, and file with the territorial treasurer a good and sufficient bond, to be approved by him, in the sum of three thousand dollars each, conditioned for the faithful performance of their duties, and rendering a true and correct account of all moneys received and expenditures made by them for or on account of such exhibition. In case of any vacancy in the said board by refusal to qualify, resignation, death or disability, or from any other cause, the governor shall appoint to fill such vacancy.

§ 3. PAYMENT OF COMMISSIONERS.] Said commissioners shall receive no compensation whatever for the services rendered by them, and shall only be entitled to be paid out of any funds appropriated by the Territory for the purposes of said international exhibition, their actual and necessary expenses incurred in the performance of their duties, and they shall render a detailed and sworn account thereof to the board of

examiners provided for in this act, and when certified to by the chairman of the board of commissioners and approved by the board of examiners, the auditor shall draw a warrant upon the treasurer for the same.

§ 4. DUTY OF COMMISSIONERS.] It is hereby made the duty of said board of commissioners to take all necessary steps to secure a creditable display of the resources of this Territory, at such exhibition, by the erection of all necessary buildings upon the section allotted them by the international board, and to co-operate with all sections of the Territory in procuring such articles, representatives of those sections, as they may deem advisable for exhibition, and also operating any machinery that would be calculated to interest and attract the world, and do or procure to be done any and all things that may tend to acquaint the people with the industries and resources of this Territory. It is further made their duty to prepare illustrated papers, pamphlets or such other printed matter as they may deem best, to properly advertise the fertility of the soil, the wealth of the mines and the other resources of this Territory, and the inducements offered to settlement and investment therein, giving to every portion of the Territory its proper and full representation therein, which advertising matter shall be displayed in the Dakota building on the exhibition grounds and distributed to visitors thereto.

§ 5. BOARD—HOW CONSTITUTED IN CASE TERRITORY IS DIVIDED.] If before the holding of such exhibition this Territory shall be divided, then the governor of each state or territory, constituted out of the present boundaries of Dakota, shall be ex-officio a member of said board, in addition to those already herein provided for, and the expense incurred by this Territory on account of the same shall be borne and paid by the several divisions in proportion to their assessed valuation, the same to be determined by the last assessment of the various counties as returned to the territorial auditor: *Provided always*, That in case of any such division of this Territory the exhibit herein provided for to be made at the international exhibition shall be made as an entirety for the whole of the present Territory, and shall not be divided or separated in any way.

§ 6. BOARD OF EXAMINERS.] That the territorial treasurer and auditor are hereby constituted and appointed a board of examiners to pass upon, audit and allow all claims made for expenditures on account of such exhibition; and whenever any claims, after examination by them, shall be found to be true and correct, and have been approved by the board of commissioners, or the chairman thereof, the auditor shall draw a warrant therefor, payable out of any funds in the treasury appropriated for this purpose.

§ 7. For the purpose of paying the expenses necessarily incurred in the collection, preparation, transportation and exhibition of the products and manufactures of this Territory, and in the erection of suitable buildings to contain the same, and for any other purpose contemplated by this act, the sum of \$20,000, or so much thereof as may be necessary, be and the same is, hereby appropriated out of any money in the territorial treasury not otherwise appropriated.

§ 8. FUNDS—HOW DRAWN FROM TREASURY.] Said fund hereby created may be drawn upon by said board of commissioners in advance of actual expenditure, and when it may be necessary, upon application to and the approval of the board of examiners; and upon such approval, the auditor shall draw his warrant for the amount required upon the treasurer, who shall pay the same out of the funds hereby appropriated for that purpose, but from no other. And all such amounts so advanced shall be charged to the said board, who shall render vouchers therefor, to be approved by the said board of examiners before obtaining the corresponding credit therefor: *Provided, however,* That no fund shall be drawn in advance of actual expenditures for a greater length of time than one month prior to its actual disbursement: *And provided further,* That no more than five thousand dollars shall be drawn in the year 1881 for the purpose mentioned in this act, and no more than \$10,000 in the year 1882, and not more than \$5,000 in the year 1883; but if a less sum is drawn in any one year than is allowed in this section, then the balance may be added to any succeeding year or years.

§ 9. REPORTS.] At each regular session of the legislative assembly for this Territory, the said board of commissioners shall make a full report of all expenses incurred by them and

for what purpose, and at the first session of the legislature, after the holding of said International Exhibition, they shall make a final and complete report of all their proceedings had under the provisions of this act.

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

Approved, March 2, 1881.

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## Water Rights.

### CHAPTER 142.

#### AN ACT Relating to Water Rights.

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

§ 1. PARTY HOLDING LAND SHALL HAVE RIGHT TO WATER.] That any person or persons, corporation or company, who may have or hold a title or possessory right or title to any mineral or agricultural lands within the limits of this Territory, shall be entitled to the usual enjoyment of the waters of the streams or creeks in said Territory for mining, milling, agricultural or domestic purposes; *Provided:* That the right to such use shall not interfere with any prior right or claim to such waters when the law has been complied with in doing the necessary work.

§ 2. MAY CONDUCT WATER FROM REMOTE STREAM.] That when any person or persons, corporation or company, owning or holding land as provided in section 1 of this act, shall have no available water facilities upon the same, or whenever such lands are too far removed from any stream or creek to so use the waters thereof, as aforesaid, such person or persons, corporation or company shall have the right of way through and over any tract or piece of land for the purpose of conducting and conveying said water by means of ditches, dykes, flumes or canals, for the purpose aforesaid.

§ 3. RIGHT OF WAY LIMITED.] That such right to dig and construct such ditches, dykes, flumes and canals over and across the lands of another, shall only extend to so much digging, cutting or excavation as may be necessary for the purposes required.

§ 4. CONTROVERSIES—HOW DETERMINED.] That in all controversies respecting rights to water, under the provisions of this act, the same shall be determined by the date of appropriation as respectively made by the parties, whether for mining, milling, agricultural or domestic purposes.

§ 5. DETERIORATION OR DIMINUTION NOT TO BE CONSIDERED.] That the waters of the streams or creeks of the Territory may be made available to the full extent of the capacity thereof for mining, milling, agricultural or domestic purposes, without regard to deterioration in quality or diminution in quantity, so that the same do not materially affect or impair the rights of the prior appropriator.

§ 6. PENALTY FOR DAMAGING LANDS.] That any person or persons, corporation or company, damaging or injuring the lands or possessions of another by reason of cutting or digging ditches or canals, or erecting flumes, as provided by section 2 of this act, the party so committing such injury or damage shall be liable to the party so injured for the actual damage occasioned thereby.

§ 7. ABANDONED WATER RIGHT. BRIDGING DITCHES, ETC.] That this act shall not be so construed as to impair or in any way or manner interfere with the rights of parties to the use of the waters of such streams or creeks, acquired before the passage of this act; *Provided:* That all water rights or ditches that have not been used or worked upon for one year next prior to the passage of this act, shall be deemed abandoned and forfeited and subject to appropriation anew. That any person or persons, corporation or company, who may dig any ditch or canal, dyke or flume, over or across any public road, trail or highway, or who use the waters of such ditch, dyke, flume or canal, shall be required to bridge the same and keep the same in good repair at such crossing or other places where the water from any such ditch, dykes, flumes or canals may flow over or in anywise injure any road, trail or highway, either by bridges or otherwise.

§ 8. PENALTY FOR FAILURE TO COMPLY WITH PROVISIONS OF SECTION 7.] That any person or persons, corporation or company offending against section 7 of this act, on conviction thereof, shall forfeit and pay for every such offense, a penalty of not less than twenty-five dollars, nor more than one hundred dollars, to be recovered with costs of suit in civil action in the name of the Territory of Dakota, before any court having jurisdiction. One half of the fine so collected shall be paid into the county treasury for the benefit of the common schools of the county in which the offense was committed and the other half shall be paid to the person or persons informing the nearest magistrate that such offense has been committed. All such fines and costs shall be collected without stay of execution, and such defendant or defendants may, by order of the court, be confined in the county jail until such fine and costs have been paid.

§ 9. MANNER OF LOCATING WATER RIGHTS.] That any person or persons, corporation or company appropriating the waters of any streams or creeks in this Territory, shall turn the water from the channel of such creek or stream, and construct at least twenty feet of ditch or flume, within thirty days from the date of appropriation and turn the water therein, and construct at least twenty rods of said ditch or flume if needed within six months from the date of such appropriation and turn the water therein; and within twenty days from the date of location, the locator or locators of such water right, shall file a location certificate thereof with the register of deeds, in the proper county within which such water right is situated; a copy of such certificate shall be posted at or near the head of such ditch, flume or canal and shall contain the name or names of the locators, the date of location, number of inches of water claimed or appropriated and the purpose of the appropriation; and in no case shall the number of inches of water claimed exceed the conveying capacity of the first twenty feet of the flume or ditch, nor shall said ditch or flume be enlarged to the prejudice or injury of a subsequent appropriator, before such enlargement.

§ 10. WHEN ABANDONED.] A failure to commence the construction of such ditch or flume for sixty days after location, and prosecute such ditch, canal or flume to a final completion

without unnecessary delay, such appropriation shall be deemed abandoned.

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

ENDORSED.—Received at Executive Office, February 28, at 5:30 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.*

# SPECIAL AND PRIVATE LAWS.

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## Assessors.

### CHAPTER 1.

#### LAWRENCE COUNTY.

AN ACT relating to the Assessment of Lawrence County, and to the Compensation of the Assessor of said County.

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

§ 1. TIME OF MAKING ASSESSMENT.] That the assessor of Lawrence county shall commence the assessment of said county on the first Monday in April in each year, making the assessment and return at the time and in the manner now provided for in this Territory.

§ 2. DEPUTY ASSESSORS AND COMPENSATION.] That the assessor of Lawrence county shall be authorized and required to employ at least two and not to exceed five deputies, as he may deem sufficient for a proper assessment of said county in the time allowed by law, and all such appointments shall be confirmed by the board of county commissioners before they enter upon the discharge of their duties; and said assessor shall have and receive as compensation for all services to be performed by him or his deputies the sum of seventeen hundred and fifty dollars in full of all charges for mileage per diem, or other fees whatsoever.

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

ENDORSED.—Received at Executive Office, February 28, at 5:30 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 House 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 2.

## PENNINGTON AND CUSTER COUNTIES.

AN ACT to Increase the Pay of Assessors in the Counties of Pennington and Custer.

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

§ 1. PAY OF ASSESSORS.] That the assessors of the counties of Pennington and Custer and their deputies shall receive for their services for each and every day actually and necessarily engaged in performing their duties, the sum of five dollars: *Provided*, That the total amount that shall be paid to such assessors and their deputies for all services rendered in making such assessment shall not exceed the sum of three hundred dollars in any one year.

§ 2. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed so far as they apply to the cases herein provided for by this act.

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

ENDORSED.—Received at Executive Office, February 26, at 1:30 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 House 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.*

## Assessments.

### CHAPTER 3.

#### TRAILL COUNTY.

AN ACT to Legalize the Assessment of Traill County, D. T., for the Years 1879 and 1880.

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

§ 1. CERTAIN ASSESSMENT LEGALIZED.] That the assessments of territorial, county, county sinking fund, land, road, poll, district school and other taxes for the years 1879 and 1880, in the county of Traill and Territory of Dakota, are hereby declared to be legal and effectual and of full force and effect: *Provided, however,* That this act shall not be construed to apply to any unequal or unjust valuation or assessment of property, real or personal, upon the rolls of assessment, or to any errors in listing or valuing any of said property in said county.

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

Approved, March 1, 1881.

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### CHAPTER 4.

#### TRAILL COUNTY.

AN ACT to Legalize the Assessment of Property for Taxation in Traill County for the Years 1879 and 1880.

WHEREAS, S. B. Ronglie, assessor of Traill county, failed to attach to the assessment rolls for the years 1879 and 1880, the oath required by section twelve of the Political Code, and

WHEREAS, It appears that all other acts of said assessor in reference to said assessments were done in pursuance of law; therefore,

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

§ 1. ASSESSMENT DECLARED LEGAL.] That said assessments be, and the same are, hereby declared to be legal, and to have the same force and effect as if said assessor had attached to said assessment rolls the oath required by said section twelve.

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

Approved, February 17, 1881.

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## Bonds.

### CHAPTER 5.

#### BARNES COUNTY COURT HOUSE AND JAIL.

AN ACT granting Authority to the County Commissioners of Barnes County to Issue Bonds for the Erection and Construction of a Court House and Jail in accordance with the Vote of the People, submitted November 2, 1880.

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

§ 1. COMMISSIONERS AUTHORIZED TO ERECT COURT HOUSE, AND ISSUE BONDS ] The board of county commissioners of Barnes county are hereby authorized, empowered and directed to issue the bonds of the said county, not to exceed in amount the sum of thirty thousand dollars (\$30,000), with interest coupons attached, for the purpose of erecting and furnishing a court house and jail in said county; and said bonds shall be used for no other purpose whatever except to build and furnish said court house and jail in accordance with the vote of the people, submitted November 2, 1880: *Provided, however,* That not more than one fifth of the whole amount shall be expended for the erection and furnishing of said jail.

§ 2. DENOMINATION OF BONDS.] Said bonds shall be in amounts of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) each, and shall bear interest at a rate not exceeding eight (8) per cent. per annum, payable annually at the office of the county treasurer of said county; and the principal of said bonds shall be payable at such time or times, not less than two (2) nor more than ten (10) years after date, as said board of county commissioners shall by resolution determine, and shall not be negotiated for less than their par value.

§ 3. FORM OF BONDS.] The bonds issued under the provisions of this act shall be signed by the chairman of the board of county commissioners of said county, be attested by the clerk of the said county and sealed with his official seal, and shall express on their face the object for which they shall have been issued; and said clerk shall keep a record of all such bonds, and number the same consecutively.

§ 4. BOND TAX.] The county commissioners of said county shall annually after issuing said bonds assess and levy a tax upon all taxable property of said county, in addition to all other taxes levied, sufficient in amount to pay the interest accruing yearly on all bonds so issued; and when the principal of said bonds or any part thereof is about to become due, they shall in like manner by levy of a tax cause moneys to be raised in an amount equal to said principal or any part thereof about to become due.

§ 5. COMMISSIONERS TO ADVERTISE FOR PLANS, ETC.] The board of county commissioners of said county shall immediately after the passage of this act, advertise in the *Valley City Times*, *Fargo Daily Argus* and *St. Paul Daily Pioneer-Press*, for three weeks, for plans and specifications for a suitable building or buildings for the purpose hereinbefore provided. Said buildings to provide for a jail, suitable rooms for all the county officers that are required by law to be provided with offices, and for a court room, grand and petit jury rooms, and such other rooms as are usually provided for court and county purposes, to be included within one building or more, as in the judgment and discretion of said board of county commissioners shall be deemed to be the most economical and otherwise the most advisable.

§ 6. BUILDING TO BE ERECTED AT COUNTY SEAT.] The said board of county commissioners shall cause said building or buildings to be erected at the county seat of Barnes county, and on the site now used and occupied by said county for said purpose.

§ 7. CONTRACT TO BE LET TO LOWEST BIDDER. PROVISIO.] The erection and construction of said building or buildings shall be let by the board of county commissioners to the lowest bidder, after advertisement for public proposals for not less than four weeks in the *Valley City Times*, *Fargo Daily Argus* and the *Daily St. Paul Pioneer-Press*, and sufficient bonds shall be required by the said board from the contractor. Said bond to accompany the bid with not less than two responsible sureties, for the construction and completion of said building or buildings in accordance with the plans and specifications adopted by the board of county commissioners and in accordance with the provisions of this act: *Provided, however*, That if in the judgment of the said board the lowest bid for such contract is too high they shall have the power to reject all bids and advertise anew, and this from time to time until a proper bid is received.

§ 8. TIME FOR COMMENCEMENT AND COMPLETION.] The erection and construction of said building or buildings shall commence on or before the first day of June, 1881, unless longer detained by the acceptance of a proper bid by said board, and shall be completed entire and ready for occupancy on or before the first day of June, 1882.

§ 9. PAYMENTS.] The board of county commissioners shall have the power to provide in the contract for the terms of payment, and for withholding from time to time such percentage from the value of the work as it progresses as shall insure a prompt compliance by the contractor with the terms of said contract, and to provide such other matters and things as shall be usually necessary and requisite with reference to such contract: *Provided, however*, That the terms of payment from time to time shall only be so fast as the work progresses, with fifteen per cent deducted therefrom, to insure the fulfillment of said contract.

§ 10. PENALTY FOR MISUSE OF FUNDS.] Any willful violation of any of the provisions of this act shall be deemed and held

to be punishable as a misdemeanor, and a misappropriation of any of the bonds or funds provided for under the provisions of this act, including such as are to be levied and collected by taxation, or their use for any other purpose except as herein specified, or of any portion thereof, shall be and it is hereby declared to be a felony and punishable by imprisonment in the penitentiary not exceeding five (5) years or by fine not exceeding double the amount of such misappropriation or use, or by both such fine and imprisonment.

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

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

ENDORSED.—Received at Executive Office, February 7, 1881, at 2:00 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 House 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.*

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## CHAPTER 6.

### BISMARCK.

AN ACT to Fund the Indebtedness of the City of Bismarck.

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

§ 1. INDEBTEDNESS OF CITY TO BE BONDED.] That the outstanding indebtedness of the city of Bismarck, in this Territory, shall be funded as herein provided.

§ 2. MAYOR AND COUNCIL TO MAKE PROVISION.] That the mayor and council of the city of Bismarck, on and after the first day of May, 1881, shall have the authority and it is hereby made their duty to provide that whatever warrants drawn upon the

general fund shall be presented to the city treasurer of said city in sums of fifty or one hundred dollars for the purpose of being funded; that such warrants shall be taken up, the interest calculated, if any, to the first day of May, 1881, and in lieu thereof and in payment of said warrants, the bonds of said city bearing date the first day of May, 1881, with interest coupons attached, at the rate of eight per centum per annum, said interest to be paid semi-annually, be issued and made payable at the city treasurer's office in said city of Bismarck, and the principal of said bonds shall become due and payable on the first day of May, one thousand nine hundred and one (1901). The said bonds shall be issued in denominations of fifty or one hundred dollars, as shall be designated by the person presenting such warrants for funding.

§ 3. BOND TAX.] It shall be the duty of the mayor and council of said city of Bismarck to levy and collect annually a tax in cash sufficient to pay the interest on such bonds, and after ten years from the issue of said bonds they shall levy and collect in addition thereto an additional sinking fund bond tax, sufficient to pay the principal of such bonds by the time they shall become due and payable, which said sinking fund shall only be applied to the payment of said principal: *Provided, however,* That the accumulations of said fund may be used in buying up said bonds before their maturity or may be invested in United States bonds, as may be determined by said mayor or council, which said United States bonds and the interest thereon shall be held as a fund to pay the bonds authorized to be issued under this act.

§ 4. FORM OF BONDS.] Said bonds shall be printed or lithographed, and shall be signed by the mayor and attested by the city clerk, and the seal of said city affixed thereto, and payable to the order of the person presenting such warrants.

§ 5. TREASURER TO PROVIDE BOND REGISTER.] The city treasurer of said city shall provide himself at the expense of the city with a book called the "Bond Register," wherein he shall note the number and denomination of each bond issued, the date when issued, the party to whom issued, which "Register" shall be subject to the inspection of the public at all reasonable times.

§ 6. SPECIAL ELECTION TO DECIDE UPON ISSUE OF BONDS.] That before the bonds shall be issued under the provisions of this act a special election shall be held in the city of Bismarck, called by the mayor and city council of said city after thirty days' notice thereof, and if a majority of the legal voters of said city voting at said election shall vote in favor of the issuing of the bonds as provided by this act, the bonds shall be issued as herein provided and not otherwise.

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

Approved, February 26, 1881.

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## CHAPTER 7.

### BURLEIGH COUNTY.

AN ACT Authorizing the Board of County Commissioners of Burleigh County to Fund the Outstanding Indebtedness thereof.

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

§ 1. AUTHORIZED TO FUND INDEBTEDNESS.] That the board of county commissioners of the county of Burleigh are hereby authorized to fund such indebtedness of said county as may exist on the first day of July, 1881, in a manner by this act provided.

§ 2. WARRANTS TO BE REDEEMED IN BONDS.] That said board of county commissioners, on and after the first day of July, 1881, shall have the authority and it is hereby made their duty to provide, that whenever warrants drawn for any portion of the indebtedness hereinbefore mentioned shall be presented to the county treasurer, in sums of fifty dollars and upwards, for the purpose of being funded, that such warrants shall be taken up, the interest thereon calculated to the first day of July, 1881, and in lieu thereof and in payment of said warrants, that the bonds of said county, in denominations of not less than fifty dollars, bearing date and with appropriate

coupons for interest, attached to such bonds and payable as hereinafter mentioned, be issued to the holder of such warrants.

§ 3. TIME OF PAYMENT—INTEREST, ETC.] Such bonds shall be dated the first day of July, 1881, shall be payable ten years after date and shall bear interest at the rate of eight per cent. per annum, payable annually on the first day of March, at the county treasurer's office in said county and the principal thereof shall be there payable.

§ 4. BOND TAX.] It shall be the duty of the board of county commissioners of said county, to fund the outstanding indebtedness as herein provided, to levy and collect annually a tax in cash sufficient to pay the interest on said bonds, and after eight years, they shall levy and collect in addition thereto annually a sinking fund bond tax sufficient to pay the principal of such bonds by the time they shall become due and payable; and with such sinking fund bond tax, as fast as the same is collected, they shall go into the market and buy up such bonds and retire the same, and such interest tax and sinking fund bond tax shall not be used for any other purpose. *Provided:* That no more than the par value shall be paid for said bonds. In the retiring of such bonds it shall be the duty of the county commissioners to advertise for thirty days previous to the first day of March in each [year], in the official paper of the said county, inviting the holders of such bonds to make bids of the price in cash at which they will sell their bonds to the county, and the said county commissioners shall buy such bonds so offered, as far as the "sinking fund bond tax," in the hands of the county treasurer on the said first day of March will permit at the lowest prices offered, not to exceed the par value of the same.

§ 5. LIMIT IN WHICH BONDS MAY BE ISSUED.] The said outstanding indebtedness which shall exist on the said first day of July, 1881, shall be funded as herein provided, and any and all persons shall have until the first day of October, 1883, to bring in warrants in their possession drawn on such fund and receive the bonds as before provided and no longer.

§ 6. BONDS—BY WHOM EXECUTED.] The county commissioners of said county shall at the first session of their board, after the passage of this act, make such provisions as shall

be necessary and proper for carrying out the provisions of this act, or as soon thereafter as it can reasonably be done; and such bonds shall be either printed or lithographed and shall be executed by the chairman of the board of county commissioners for the county aforesaid, and shall be under the seal of the county and attested by the clerk thereof; shall be payable to the persons respectively presenting such warrants or bearer.

§ 7. DISPOSITION OF WARRANTS.] When such warrants are so taken up and paid by the issue of bonds, as herein provided, such warrants shall be marked, "Paid by bond No..... (giving number of bond) and shall be retained by the county treasurer until his settlement with the county commissioners, and shall then be carefully compared with the bond register and if found to correspond therewith, shall be then destroyed, and to facilitate settlement with such board, the county treasurer shall indorse upon each warrant so taken up and paid the amount of interest thereon.

§ 8. BOND REGISTER.] The county treasurer of Burleigh county shall provide himself with a book, to be called "The Bond Register," wherein he shall note the number of bonds issued, the date when issued, the party to whom issued and the amount of the warrant and amount of interest thereon, for which such bond was exchanged, and such other facts as he shall be required thereunto by the county commissioners, and such register shall immediately after the first day of October, 1881, be deposited with the county clerk and shall remain in his office as a public record; *Provided:* That the said county treasurer shall not receive compensation for the same to exceed one per cent. of the bonds so exchanged for outstanding warrants.

§ 9. JUDGMENT AGAINST COUNTY. WHEN PAID.] The outstanding indebtedness of said county, which shall exist on the first day of July, 1881, only, shall be funded, and if judgment shall be rendered against said county on any of the warrants herein mentioned, no tax shall be levied to pay such judgment for eight years from and after the rendition of the same, nor shall any execution be issued against the property of the said Burleigh county on said judgment for said eight years from the date thereof.

§ 10. **ISSUE OF WARRANTS PROHIBITED UNLESS TAX HAS BEEN COLLECTED TO PAY THEM.]** On and after the first day of July, 1881, no warrant or warrants shall be drawn or issued on the treasurer of Burleigh county by the commissioners of the said county, until after the tax for redeeming the same shall have been collected and actually paid into the county treasury and shall therein remain, applicable to the payment of all warrants so issued by the said county commissioners.

§ 11. **WARRANTS—HOW REGISTERED AND PAID.]** All county warrants which shall be issued on and after the first day of July, 1881, shall be numbered and registered by the county commissioners in the regular order of their issue in a register or book kept in their office for that especial purpose and a duplicate copy of the said register shall be kept by the county treasurer in his office, both of which registers shall be at all times open to inspection by the public during office hours, and all county warrants so issued, numbered and registered, shall be paid in the regular order in which they were issued, numbered and registered, and in no other manner; and whenever any county warrant so registered shall be paid by the county treasurer, the amount paid thereon and the date of payment thereof shall be written opposite the number of the warrant or warrants so paid by the county treasurer on his register.

§ 12. **TREASURER TO SET ASIDE FUNDS—WHEN. PREFERRED CLAIMS.]** Whenever any county warrant which may be issued on or after the first day of July, 1881, shall remain outstanding and unpaid, the county treasurer shall from the moneys in the county treasury, inclose and seal up in a package the amount due on said outstanding warrant as shown by the warrant register and in the regular [order] of the issue, and mark thereon the amount of money inclosed therein, and the number of the warrant to be paid therewith and deposit the same in the treasury safe, to be kept there until the said warrant shall be presented for payment, at which time the county treasurer shall pay the same and shall take up and cancel said warrant. *Provided, however:* That the interest on the bonds issued for funding the outstanding indebtedness of the county shall be held to be a preferred claim against the county, and

the same shall be paid before any other claim against said county from the funds in the treasury.

§ 13. TAX.] The county commissioners may annually cause to be levied and collected a tax not to exceed twenty-five per cent. in excess of the estimated amount required for county purposes, and the surplus tax so levied and collected shall go to create a sinking fund to defray the extraordinary expenses of said county.

§ 14. MISDEMEANOR.] Each and every violation of any of the provisions of this act shall be held to be a misdemeanor.

§ 15. SPECIAL ELECTION.] *Provided:* That nothing in this act shall be so construed as to authorize any action to be taken by the said board of county commissioners toward funding the outstanding indebtedness of said county of Burleigh before the question has been submitted to the legal voters of said county at a general or special election called for that purpose and decided in the affirmative by a majority of the legal voters voting at said special or general election.

§ 16. This act shall take effect and be in force from and after its passage and approval, and it amends and modifies all acts and parts of acts inconsistent with its provisions, so far only as it is necessary to carry this act into effect.

Approved, March 3, 1881.

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## CHAPTER 8.

### CHARLES MIX COUNTY.

AN ACT authorizing the County Commissioners of Charles Mix County of this Territory to Fund the Outstanding Indebtedness of said County.

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

§ 1. CERTAIN INDEBTEDNESS TO BE BONDED.] That the outstanding indebtedness of the county of Charles Mix, Territory of Dakota, payable out of the taxes for ordinary county revenue, special bridge fund, sinking fund and special court house fund tax shall be funded as hereinafter provided.

§ 2. REDEMPTION OF OUTSTANDING WARRANTS IN BONDS.] That the county commissioners of the aforesaid county on the passage of this act shall have the authority and it is hereby made their duty to provide that whenever warrants drawn upon the funds hereinbefore mentioned, shall be presented to the county treasurer of said county in sums of fifty dollars and upwards for the purpose of being funded, that such warrants shall be taken up, the interest calculated thereon to the first day of January, 1882, and in lieu thereof and in payment of said warrants; that the bonds of said county in denominations of not less than fifty dollars, bearing date and with coupons attached to such bonds and payable as hereinafter mentioned, be issued to the holder of such warrants.

§ 3. BONDS—WHEN PAYABLE.] Such bonds shall be dated the first day of January, 1882, shall be payable ten years after date and shall bear interest at the rate of eight per cent. per annum, semi-annually, on the first days of July and January of each year, at the county treasurer's office in said county, and the principal thereof shall then be payable as herein provided.

§ 4. BOND TAX.] It shall be the duty of the county commissioners of said county to fund the outstanding indebtedness as herein provided, to levy and collect annually a tax sufficient to pay the interest on said bonds, and after five years they shall collect in addition thereto annually a sinking fund bond tax sufficient to pay the principal of such bonds by the time they shall become due and payable; and with such sinking fund bond tax they shall as fast as the same is collected, go into the market and buy up such bonds and retire the same, and such interest tax and sinking fund bond tax shall not be used for any other purpose: *Provided*, That no more than the par value shall be paid for said bonds.

§ 5. TIME IN WHICH BONDS MAY ISSUE.] The outstanding indebtedness which shall exist on the first day of January, 1882, shall be funded as herein provided, and any and all persons shall have until the first day of April, 1882, to bring in warrants in their possession drawn on such funds, and receive the bonds as before provided and no longer.

§ 6. FORM OF BONDS.] The county commissioners of said county shall at the first session of the board after the passage

of this act make such provisions as shall be necessary and proper for carrying out the provisions of this act, or as soon thereafter as it can reasonably be done, and such bonds shall either be lithographed or printed with interest coupons thereto attached, and shall be executed by the chairman of the board of county commissioners for the county aforesaid, and shall be under the seal of the county and attested by the clerk thereof, and shall be payable to the persons respectively presenting such warrants or bearer.

§ 7. WARRANTS REDEEMED—HOW DISPOSED OF.] When such warrants are so taken up and paid by the issue of bonds as herein provided, such warrants shall be marked “paid by bond” No. ...., (giving No. of bond), and shall be retained by the county treasurer until his settlement with the county commissioners, and shall then be carefully compared with the bond register, and if found to correspond therewith shall then be further cancelled by being marked on each separate warrant, funded under act of ...., 1881, examined and found correct this ..... day of ....., 1882, and signed by the county clerk, and by him, in presence of the board of county commissioners, put up in a sealed package marked warrants taken in exchange for bonds No. .... to No. .... inclusive, amounting to \$...., and by him filed in the county clerk’s office for future reference, and to facilitate such settlement with such board the county treasurer shall indorse upon each warrant so taken up and paid the amount of interest allowed thereon.

§ 8. BOND REGISTER.] The county treasurer of Charles Mix county shall provide himself with a book to be called the “Bond Register,” wherein he shall note the number of all bonds issued, the party to whom issued and the amount of the warrant or warrants and the amount of interest thereon for which such bond was exchanged, and such other facts as [he] shall be required thereunto by the county commissioners, and such register shall immediately after the first day of April, 1882, be deposited with the county clerk and shall remain in his office as a public record.

§ 9. PENALTY FOR VIOLATING PROVISIONS OF ACT.] Each and every violation of any of the provisions of this act shall be held to be a misdemeanor, and on conviction thereof the party

so offending shall be punished by a fine not less than two hundred or more than five hundred dollars, or by imprisonment in the county jail for a term not less than six months, or by both, as the court may direct.

§ 10. All acts and parts of acts hereinbefore passed and now in force which conflict with any of the provisions of this act are hereby repealed.

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

Approved, February 21, 1881.

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## CHAPTER 9.

### USTER COUNTY.

AN ACT authorizing the County of Custer, D. T., to Issue Bonds for the purpose of Building a Court House and Jail, opening County Road and Funding Outstanding Indebtedness.

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

§ 1. COUNTY BONDS AUTHORIZED FOR CERTAIN PURPOSES.] That the county commissioners of the county of Custer, in the Territory of Dakota, be empowered and are hereby authorized to issue bonds of not less than one hundred dollars each, to the amount of twenty thousand dollars, payable in not exceeding ten years, for the purpose of building a court house and jail, opening new road from Custer to Battle River, D. T., and funding outstanding indebtedness of six thousand dollars (\$6,000); which bonds shall draw interest from the date thereof, payable annually at a rate not exceeding eight per cent. per annum. The bonds shall specify on their face the date, amount, for what purpose issued, the time and place of payment, and rate of interest; shall be printed on good paper, with coupons attached for each year's interest, and the amount of each year's interest shall be placed in corresponding coupons until such bond shall become due, in a manner so as to

have the last coupon fall due the same time as the bond. Said bonds and coupons thereto attached shall be severally signed by the chairman of the board of county commissioners and attested by the clerk of said county. Said bonds and interest to be made payable at such place or places as said county commissioners may designate in said bonds.

§ 2. PURPOSE FOR WHICH BONDS MAY BE USED.] Said bonds may be issued in satisfaction of the building of said court house and jail, to be erected at the county seat, opening new road and funding the present outstanding indebtedness, or may be sold at not less than ninety cents on the dollar, and the avails of such sales shall be used in payment of the indebtedness incurred.

§ 3. BOND TAX.] The county commissioners of said county are hereby granted all the needful authority to levy taxes from time to time, not to exceed ten mills on the taxable property in said county, in addition to the tax already allowed by law. Said tax to be for the purpose of paying the interest on said bonds promptly when due, and for creating a sinking fund for paying the principal of said bonds when due.

§ 4. TREASURER TO COLLECT TAX.] It shall be the duty of the treasurer of said county of Custer to collect the tax herein provided for in the same manner, and to sell property when the tax thereon is delinquent, as in other cases as provided by law.

§ 5. SPECIAL ELECTION.] Nothing herein contained shall be construed to authorize the issuing of such bonds unless a majority of all the legal voters present and voting shall vote in favor thereof, at a special election of the legal voters of said county as hereinbefore provided.

§ 6. SPECIAL ELECTION.] The county commissioners of said county are hereby authorized and have all the needful power to call a special election of the legal voters of said Custer county, to be held in the several voting precincts of said county, at any time after the taking effect of this law, but shall first give notice of such election in the same manner as now required by law for general elections. For the purpose of voting upon the question of issuing bonds, the voting at such election shall be by printed or written ballot with words, "For issuing court house and jail bonds, yes;" "County road

bonds, yes;" and "Funding bonds, yes." Or, "For issuing court house and jail bonds, no;" "County road bonds, no;" and "Funding bonds, no." Said election shall be governed in the same manner, so far as applicable, as provided by law for conducting general elections in this Territory, and the vote of said election shall be canvassed in the same manner as provided by law for canvassing votes for county officers; and if a majority of all the votes cast be found to be for issuing the bonds, such bonds may issue as herein provided.

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

Approved, February 25, 1881.

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## CHAPTER 10.

### DAVISON COUNTY—SCHOOL DISTRICT No. 6.

AN ACT authorizing School District No. 6, in Davison County, Dakota Territory, to Issue Bonds to take up Outstanding School Warrants, and for other Purposes.

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

§ 1. BONDS AUTHORIZED TO BUILD SCHOOL HOUSES.] The district officers of school district No. 6, in Davison county, D. T., be empowered and they are hereby authorized to issue bonds, not less than fifty dollars each, for the purpose of building school houses in their respective districts, payable in not exceeding ten years from the date of their issue, which bonds shall draw interest from the date thereof, payable annually at a rate not exceeding eight per cent. per annum. The bonds shall specify on their face the date, amount, for what purpose issued, the time and place of payment and the rate of interest. They shall be printed on good paper, with coupons attached for each year's interest, and the amount of each year's interest shall be placed in corresponding coupons until such bonds become due, in a manner so as to have the last coupon fall due

the same time as the bonds. The said bonds and coupons thereto attached shall be severally signed by the director, clerk and treasurer of said school district. The said bonds and interest to be made payable at such place or places as said school district officers may designate in said bonds.

§ 2. BONDS MAY BE USED TO REDEEM WARRANTS.] Said bonds may be issued for the purpose of paying off and taking up school warrants that have been issued by the school officers of said school district prior to the taking effect of this act; or said bonds may be issued and sold for not less than par, and the avails of such sales shall be used in payment of the indebtedness incurred by building and furnishing of such school house, which may be contracted and purchased subsequent to the passage of this act.

§ 3. BOND TAX.] The officers of said *school* school district are hereby granted all the needful authority to levy taxes from time to time, not to exceed one per cent. of the taxable property in said school district in addition to the tax already allowed by law; said tax to be used for the purpose of paying the interest on said bonds promptly when due, and for creating a sinking fund for paying the principal of said bonds when due.

§ 4. TREASURER TO COLLECT AND TURN OVER TAX.] It shall be the duty of the treasurer of said county of Davison to collect the tax herein provided for in the same manner, and to sell property when tax therein is delinquent as in other cases as provided by law, and to turn the tax collected by him over to the treasurer of said school district as in other cases provided by law.

§ 5. AMOUNT OF BONDS ISSUED LIMITED.] That the officers of said school district shall not issue in the aggregate over six thousand dollars of such bonds.

§ 6. SPECIAL ELECTION.] Nothing in this act shall be construed to authorize the issuing of such bonds unless a majority of all the legal voters present and voting shall vote in favor thereof at an annual or special election of the legal voters of said district.

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

Approved, March 3, 1881.

## CHAPTER 11.

## GRAND FORKS COUNTY—JAIL AND BRIDGES.

AN ACT Providing for the Erection and Construction of a Jail and County Bridges for the County of Grand Forks, Dakota Territory.

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

§ 1. COMMISSIONERS AUTHORIZED TO CONSTRUCT JAIL AND BRIDGES.] The board of county commissioners of Grand Forks [county], D. T., are hereby authorized and empowered, under the provisions of this act, to erect and construct a suitable building for a jail and also build county bridges within said county of Grand Forks.

§ 2. ELECTION TO PROVIDE FOR ISSUING BONDS. PLANS FOR BUILDING.] If the majority of the electors of said county voting, shall vote in favor of the issuing of bonds, the board of county commissioners are authorized and empowered to cause to be prepared plans and specifications for a suitable building for a jail, which such plans may include suitable rooms for a residence of a jailor and family, and shall select a site thereof at the county seat. The cost for the construction of the jail shall not exceed the sum of six thousand dollars. The jail shall be put under course of construction during the season of 1881 and shall be entirely completed and ready for occupancy on or before the first day of November, 1881.

§ 3. CONTRACT FOR BUILDING TO BE LET.] The erection, construction and furnishing of said jail shall be let by the board to the lowest responsible bidder after due advertisement.

§ 4. SPECIAL ELECTION TO BE CALLED.] The board of county commissioners of said county are authorized, and it is hereby made their duty, to call a special election within the several precincts of said county, on the first Monday in May, 1881, at which election the question shall be submitted to the electors of said county, whether the bonds of said county shall be issued as follows: Not exceeding six thousand dollars for county jail; not exceeding four thousand dollars for the building and completion of necessary bridges required over

the several streams and ravines; which two propositions can be voted upon separately at said election, and if either of said propositions, or both, are carried by a majority of the electors of the county so voting, then the commissioners shall issue said bonds and proceed to the erection *of the erection* of the necessary bridges and jail, or both, as decided by the people, and using their best judgment in the erection of said jail and bridges.

§ 5. BOND TAX.] If the bonds are issued in pursuance to this act, they shall not run for a period exceeding ten years, and shall not be sold for less than their face value, nor draw interest to exceed eight per cent. per annum, and the said board are authorized to levy and collect a tax sufficient to pay interest upon said bonds, and to provide a sinking fund for the redemption of the same and the moneys so levied and collected shall be used for no other purpose.

§ 6. DISCRETIONARY POWER OF BOARD OF COMMISSIONERS.] Anything not specially provided in this act, is understood that the board of county commissioners shall use their discretion, and make such rules as are necessary for the proper carrying out and fulfillment of the provisions of this act.

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

Approved, February 19, 1881.

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## CHAPTER 12.

### GRAND FORKS COUNTY—SCHOOL DISTRICTS.

AN ACT Authorizing the Several School Districts of Grand Forks County, Dakota Territory, to issue Bonds.

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

§ 1. DISTRICTS AUTHORIZED TO ISSUE BONDS.] That the district officers of the several school districts now organized or that

may hereafter be organized within the county of Grand Forks and Territory of Dakota, be empowered and are hereby authorized to issue the bonds of said district to the amount not exceeding fifteen hundred (\$1,500.00) dollars, payable in not exceeding ten (10) years, and which bonds shall draw interest from the date thereof at a rate not exceeding ten (10) per cent. per annum, interest payable annually. The bonds so issued shall specify on their face, the date, amount, for what purpose issued, the time and place of payment and rate of interest; shall be printed on good paper, with coupons attached for each year's interest, and the amount of each year's interest shall be placed in corresponding coupons until such bonds shall become due, in a manner so as to have the last coupons full due at the same time as the bond. Said bonds and coupons thereto attached shall be severally signed by the director, clerk and treasurer of said school district. Said bonds and interest to be made payable at such place or places as said school district officers may designate in said bonds.

§ 2. FOR WHAT PURPOSE ISSUED.] Said bonds shall only be issued in satisfaction of the present outstanding indebtedness of said district or for the erection of a school building or buildings, or the purchase of a site or sites therefor, or both such buildings and sites, in the future or after the passage and approval of this act. *Provided, however:* That nothing contained in this act shall be so construed as to prevent the said school district officers from selling the bonds of said district at not less than their face value, and using the proceeds of such sale in paying off such indebtedness or the erection of such building or site, or all of such.

§ 3. OFFICERS EMPOWERED TO LEVY TAX.] The officers of said school districts are hereby granted all the needful authority to levy taxes from time to time, not to exceed five (5) mills in any one year, of the taxable property in said school districts, in addition to the tax already allowed by law, said tax to be for the purpose of paying the interest on said bonds promptly when due and for creating a sinking fund for paying the principal of said bonds when due.

§ 4. TREASURER AUTHORIZED TO COLLECT TAX.] It shall be the duty of the treasurer of said county of Grand Forks to col

lect the tax herein provided for, in the same manner and to sell property when the tax thereon is delinquent, as in other cases provided by law, and to turn the tax when collected by him over to the treasurer of said school district to which it belongs, as in other cases provided by law.

§ 5. SPECIAL ELECTION.] Nothing herein contained shall be so construed as to authorize any school district to issue bonds unless a majority of all the legal voters in any of such districts present and voting, shall vote in favor thereof, at an annual or special meeting called for said purpose by the officers thereof.

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

Approved, February 23, 1881.

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## CHAPTER 13.

### GRANT AND DEUEL COUNTIES—SCHOOL DISTRICTS.

AN ACT authorizing School Districts in the Counties of Grant and Deuel, D. T., to Issue Bonds for the Purpose of building School Houses.

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

§ 1. AUTHORITY GIVEN TO ISSUE BONDS TO BUILD SCHOOL HOUSES.] That the district officers of school districts in Grant and Deuel counties in the Territory of Dakota, be empowered and are hereby authorized to issue bonds of not less than fifty dollars each for the purpose of building school houses in their respective districts, payable in not exceeding ten years from the date of their issue, which bonds shall draw interest from the date thereof, payable annually at a rate not exceeding eight per cent. per annum. The bonds shall specify on their face the date, amount, for what purpose issued, the time and place of payment and rate of interest; shall be printed on good paper with coupons attached for each year's interest, and the

amount of each year's interest shall be placed in corresponding coupons until such bonds shall become due, in a manner so as to have the last coupon fall due the same time as the bond. Said bonds and coupons thereto attached shall be severally signed by the director, clerk and treasurer of said school district. Said bonds and interest to be made payable at such place or places as said school district officers may designate in said bonds.

§ 2. BONDS—HOW DISPOSED OF.] Said bonds may be issued in satisfaction of the building of such school houses, or may be sold for not less than par, and the avails of such sale shall be used in payment of the indebtedness incurred by the building and furnishing of such school houses.

§ 3. OFFICERS AUTHORIZED TO LEVY TAXES.] The officers of said several school districts in said counties are hereby granted all the needful authority to levy taxes from time to time, not to exceed one per cent. of the taxable property in said school districts in addition to the tax already allowed by law; said tax to be for the purpose of paying the interest on said bonds promptly when due, and for creating a sinking fund for paying the principal of said bonds when due.

§ 4. DUTY OF TREASURER TO COLLECT TAX.] It shall be the duty of the treasurers of said counties to collect the tax herein provided for in the same manner, and to sell property when the tax therein is delinquent, as in other cases as provided by law, and to turn the tax collected by him over to the treasurer of said school districts as in other cases provided by law.

§ 5. SPECIAL ELECTION.] Nothing in this act shall be construed to authorize the issuing of such bonds unless a majority of all the legal voters present and voting shall vote in favor thereof at an annual or special meeting of the legal voters of said district.

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

Approved, February 19, 1881.

## CHAPTER 14.

## HUGHES COUNTY—COURT HOUSE AND JAIL.

AN ACT providing for the Erection and Construction of a Court House and Jail for the County of Hughes, Territory of Dakota.

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

§ 1. COUNTY COMMISSIONERS AUTHORIZED TO ISSUE BONDS.] That the board of county commissioners of Hughes county are hereby authorized and empowered under the provisions of this act to erect and construct a suitable building or buildings for a court house and jail within said county of Hughes, and to issue the bonds of said county for the building of the same in a sum not exceeding ten thousand dollars (\$10,000): *Provided*, That the amount of bonds so issued shall not exceed five per cent. of the assessed valuation of said county for a court house, three per cent. for a jail, or eight per cent. for a court house and jail combined.

§ 2. SPECIAL ELECTION.] The board of county commissioners of said county are hereby authorized to call a special election within the several precincts of said county at such time as they may deem advisable and under the laws governing elections, at which election the electors of said county shall be called upon to vote for or against the issue of such bonds, due notice having been given of the object of said election; and if a majority of all the votes cast at such election shall be "for court house bonds," "for jail bonds," or "for court house and jail bonds," the said county commissioners shall have full authority and are hereby ordered and directed to procure a suitable site or sites for the location of such building or buildings at the county seat of said Hughes county, and to proceed with the construction of such building or buildings, and shall issue the bonds of said county in payment of the same under such proper restrictions as the said board may deem advisable. If, however, a majority of all the votes cast at such election shall be "against court house bonds," etc., no action looking to the issue of the bonds of said county for the building of such court house or jail shall

be taken by said board, unless at some subsequent election regularly called the electors of said county shall so direct as hereinbefore specified.

§ 3. PLANS, ETC., AND LETTING OF CONTRACT.] If the electors of said county shall vote in favor of issuing said bonds the board of county commissioners are authorized and empowered, it being made their duty thereby, to cause to be prepared plans and specifications for a suitable building or buildings for said court house and jail, which plans may include rooms for the residence of a jailor and family; and the erection, construction and furnishing of said building or buildings according to the said plans and specifications shall be let by said board to the lowest responsible bidder after advertisement.

§ 4. BONDS, INTEREST, ETC.] Should the electors of said county vote for the issue of said bonds in the manner hereinbefore provided, then the said bonds shall be issued in accordance with this act, and shall not be sold at less than their par or face value, nor run for a longer period than ten (10) years nor bear a rate of interest greater than eight per cent., which interest shall be payable semi-annually at the office of the county treasurer on the first Mondays in January and July of each year.

§ 5. DESCRIPTION OF BONDS.] The bonds so issued shall be signed by the chairman of the board, the county treasurer and the clerk of said county, with the seal of the county attached; shall specify on their face the date, amount, for what purpose issued, the time and place of payment and the rate of interest; shall be printed on good paper with coupons attached for each payment of interest, the last coupon falling due at the same time as the bond, and said bonds shall be in denominations of one hundred dollars (\$100.)

§ 6. REFUNDING, ETC.] Said bonds or any part of them may be redeemed, paid or funded by the issue of similar bonds, bearing a lower rate of interest, after the expiration of five years from the date of their issue, if in the opinion of the board of county commissioners of said county it shall be for the interests of said county to so do.

§ 7. AUTHORITY TO LEVY BOND TAX.] If the said bonds are issued in accordance with this act the board of county com-

missioners of said county of Hughes are hereby given all necessary authority to levy and collect a tax sufficient to pay the interest upon said bonds and to provide a sinking fund for the redemption of the same, and the moneys so levied and collected shall be used for no other purpose.

§ 8. AUTHORITY TO MAKE RULES.] The board of county commissioners of said Hughes county shall be given authority to make all necessary rules for the proper carrying out of the provisions of this act, so far as they may be for the best interests of said county.

§ 9. WHEN TO TAKE EFFECT.] This act shall take effect and be in force from and after its passage, approval and adoption as herein provided, by the voters of the said county of Hughes; and nothing herein contained shall be construed as giving any authority to the county commissioners of said county of Hughes, to issue any bonds, unless the question regarding such issue shall have been submitted to the voters of said county, and such issue of bonds authorized by them as provided for in section two.

Approved, March 2, 1881.

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## CHAPTER 15.

### HUGHES COUNTY—SCHOOL DISTRICT No. 1.

AN ACT to authorize School District No. 1, of the County of Hughes, to Issue Bonds for the Purpose of Building a School House.

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

§ 1. DISTRICT OFFICERS AUTHORIZED TO ISSUE BONDS.] That the district officers of school district number one, in the county of Hughes and Territory of Dakota, be empowered and are hereby authorized to issue bonds of one hundred dollars each, and to the extent of three thousand dollars for the purpose of building a school house in said school district, which bonds shall be payable in five years from date of issue, and shall

draw interest from the date thereof, or at a rate not exceeding eight per centum per annum, said interest to be payable annually, and principal and interest to be payable at such place or places as said school district officers may designate in said bonds. The bonds shall specify upon their faces the date, amount, for what purpose, the time and place of payment, and rate of interest; shall be printed on good paper with coupons attached for each year's interest, and said bonds and coupons thereto attached shall be severally signed by the district clerk and treasurer of said district.

§ 2. BONDS TO BE SOLD AT PAR, ETC.] Said bonds shall be sold by the district board of said school district for not less than their par value, and the proceeds of such sale shall be paid to the said school district treasurer, and shall be used for the purpose of building and furnishing a school house and buying apparatus for the same under the direction of the said school board.

§ 3. AUTHORITY TO LEVY BOND TAX.] The officers of said school district are hereby granted all needful authority to levy taxes from time to time, not to exceed one per cent. per annum on the taxable property of said school district in addition to the tax already allowed by law; said tax to be for the purpose of paying the interest on said bonds promptly when due, and for creating a sinking fund for the payment of the principal when due.

§ 4. DUTY OF DISTRICT CLERK AND COUNTY TREASURER.] It shall be the duty of the district clerk to notify the clerk of said county of Hughes of the amount of said tax so levied by said board in the same manner as is now provided by law for notifying county clerks of the amount of taxes voted by district school meetings, and the said county clerk is hereby required to spread the said tax upon the assessment rolls in the same manner as other school district taxes are so spread; and it shall be the duty of the treasurer of said Hughes county to collect said taxes in the same manner as other taxes are, and may be collected by him, and when so collected to pay them over to said district treasurer in the manner in which other school moneys are paid over to school district treasurers.

§ 5. SPECIAL ELECTION.] Nothing herein contained shall be construed to authorize the issuing of such bonds unless a ma-

jority of the legal voters present and voting shall vote in favor thereof at a special school meeting, to be called upon like notice and in the same manner as now provided by law for calling school district meetings: *And provided*, That said voting shall be by printed or written ballots with the words, "For issuing school bonds" or "Against issuing school bonds;" and if a majority of all the votes cast be found to be in favor of issuing the bonds, such bonds may issue as herein provided.

§ 6. All acts and parts of acts in conflict with this act so far as they apply to school district No. 1, Hughes county, are hereby repealed.

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

Approved, March 5, 1881.

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## CHAPTER 16.

### HUTCHINSON AND ARMSTRONG COUNTIES.

AN ACT authorizing the Board of Commissioners of Hutchinson County to Fund certain Outstanding Indebtedness and Legalizing Warrants issued by the Commissioners of Armstrong County.

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

§ 1. COMMISSIONERS AUTHORIZED TO FUND CERTAIN INDEBTEDNESS.] That the board of county commissioners of the county of Hutchinson are hereby authorized to fund such indebtedness of said county as may exist on the first day of March, 1881, and also to fund the outstanding warrants issued by the authority of the commissioners of Armstrong county, prior to the date of delivery of the books and county records of said Armstrong county to the officers of said Hutchinson county, which warrants issued in the regular order of business by said acting commissioners of Armstrong county are hereby legalized.

§ 2. REDEMPTION OF WARRANTS.] That said board of county commissioners on and after the first day of March, 1881, shall have the authority and it is hereby made their duty to provide, that whenever warrants drawn for any portion of the indebtedness hereinbefore mentioned shall be presented to the county treasurer of said Hutchinson county, in sums of fifty dollars and upwards, for the purpose of being funded, that such warrants shall be taken up, the interest thereon calculated to the date aforesaid, March 1st, 1881, and in lieu thereof and in payment of said warrants, that the bonds of said Hutchinson county in denominations of not less than fifty dollars be issued to the holders of such warrants.

§ 3. DESCRIPTION OF BONDS.] Such bonds shall be dated the first day of March, 1881, shall be payable ten years after date and shall bear interest at the rate of eight per cent. per annum, payable annually on the first day of March at the office of the county treasurer in said county, and the principal thereof shall there be payable as herein provided, that said bonds shall have attached thereto ten coupons, each one representing one year's interest.

§ 4. LEVYING BOND TAX.] It shall be the duty of the county commissioners of said county to enable them to fund the outstanding indebtedness as herein provided, to levy and collect annually a tax sufficient to pay the interest on said bonds, and after five years they shall collect in addition thereto annually a sinking fund bond tax sufficient to pay the principal of such bonds by the time they shall become due and payable; and with such sinking fund bond tax they shall as fast as the same is collected go into the market and buy up such bonds and retain the same until they have been completely destroyed, in the presence of the board of county commissioners in session, and a record made thereof accurately describing them, and such interest tax and sinking fund bond tax shall not be used for any other purpose: *Provided*, That no more than par value shall be paid for said bonds.

§ 5. COMMISSIONERS TO MAKE RULES FOR CARRYING OUT PURPOSE OF THIS ACT.] The county commissioners of said county shall at the first session of the board after the passage of this act, make such provisions as shall be proper and necessary for carrying out the provisions of this act; and said bonds shall

either be lithographed or printed with interest coupons thereto attached, and shall be executed by the chairman of the board of county commissioners for the county aforesaid, and shall be under the seal of the county and attested by the clerk thereof, and shall be payable to the persons respectively presenting such warrants, or bearer.

§ 6. REDEEMED WARRANTS.] When such warrants are so taken up and paid by the issue of bonds as herein provided, such warrants shall be marked, "Paid by bond No."....., and shall be retained by the county treasurer until his settlement with the county commissioners, and shall be then carefully compared with the bond register and if found to correspond therewith shall be destroyed as mentioned in section four aforesaid; and to facilitate such settlement with such board, the county treasurer shall endorse upon each warrant so taken up and paid the amount of interest allowed thereon.

§ 7. REGISTERING BONDS.] The county treasurer of said Hutchinson county shall register all bonds issued as aforesaid in the bond register by number, the party to whom issued, and the amount of the warrant or warrants and the amount of interest thereon for which such bond was exchanged, and such further facts as the commissioners may direct; and that the treasurer aforesaid for his services be allowed the same fees as he is now entitled to in the collection of taxes, in the discretion of the board of commissioners.

§ 8. PENALTY FOR VIOLATION OF THIS ACT.] Each and every violation of any of the provisions of this act shall be held to be a misdemeanor, and on conviction thereof the party so offending shall be punished by a fine not less than two hundred dollars and not more than five hundred dollars.

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

ENDORSED.—Received at Executive Office, February 16, at 1:05 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 House 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 17.

## KINGSBURY COUNTY—COURT HOUSE AND JAIL.

AN ACT to Authorize the Board of County Commissioners of the County of Kingsbury, Territory of Dakota, to issue Bonds for the Erection and Construction of a Court House and Jail for the use of said County.

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

§ 1. AUTHORITY TO ISSUE BONDS.] That the board of county commissioners of Kingsbury county, Dakota Territory, be and are hereby authorized and fully empowered to issue bonds for the purpose of erecting and constructing a suitable building for a court house and jail for the use of said county of Kingsbury.

§ 2. SELECTING SITE.] The county commissioners of said county after they shall have determined upon the erection of said building shall select the site thereof at the county seat of said county at such place as they shall deem the most advisable.

§ 3. PLANS AND SPECIFICATIONS.] The board of county commissioners of said county are authorized and empowered at any time they may deem proper after the passage and approval of this act, to cause to be prepared plans and specifications for a suitable building for the purpose hereinbefore specified, as in the judgment of said board of county commissioners shall be deemed sufficient, and the contract for the erection and construction of said court house and jail shall be let by the said board to the lowest responsible bidder, after advertising for public proposals for a period of not less than four weeks, in such newspapers as the commissioners aforesaid may designate. A sufficient bond shall be required by the said board from the contractor, with not less than two responsible sureties, for the construction and completion of said court house and jail, in accordance with the plans and specifications adopted by the said board of county commissioners: *Provided, however,* That no county commissioner nor county officer whomsoever of said county shall be a contractor for the erection and construction of said building or any part thereof.

§ 4. COMMISSIONERS TO ISSUE BONDS.] For the purpose of providing funds to pay the cost of constructing said building the said board is hereby authorized and empowered, and if they determine to construct said building, it is made their duty to prepare and issue the bonds of said county with coupon interest notes attached, running for a term of fifteen years, bearing not to exceed eight per cent. interest per annum, payable annually on the first day of January of each year at the office of the county treasurer of said county, which bonds shall be in denominations of not less than fifty dollars each, and for a sufficient sum to pay the cost of erection and construction of said court house and jail not to exceed the sum of five thousand dollars. Said bonds from time to time [shall] be sold by said board at not less than par, in such sums as shall be sufficient to meet the obligations accruing under the provisions of the contract for the erection and construction of said building.

§ 5. TERMS OF PAYMENT TO CONTRACTOR.] The board of county commissioners if they determine to construct said building shall provide in the contract that the terms of payment from time to time shall be only so fast as the work progresses, with twenty per cent. deduction therefrom, to insure the fulfillment of said contract, and such payments shall be in cash, and the erection and construction of said court house and jail shall be at all times under the supervision and control of said board or any agent said board may elect for the purpose.

§ 6. REDEMPTION OF BONDS.] In issuing the bonds herein provided for, the terms thereof shall provide that after the expiration of five years from the date thereof it shall be optional with the said county, at any time before they shall become due, to redeem the same at par, and accrued interest at the date of redemption, at such times and in such amounts as the board of county commissioners or other lawful fiscal agents of said county shall from time to time determine, and under such rules and regulations as to notice thereof as they may prescribe.

§ 7. BOND TAX.] The board of county commissioners shall for the year in which such bonds are issued and each year thereafter, levy and cause to be collected a tax sufficient to pay the interest on said bonds promptly as it shall become due and payable, and for the payment thereof at or before

their maturity, as provided in section six of this act; and after the expiration of five years from the date of the issuance of said bonds, said board shall levy and cause to be collected a sinking fund tax for the payment of said bonds, sufficient to redeem the same within the period of their maturity; and as fast as such sinking fund shall become available, they shall redeem such bonds under the provisions of section six (6) aforesaid.

§ 8. BOND TAX TO BE USED FOR NO OTHER PURPOSE.] The moneys levied and collected for the payment of the interest or principal of said bonds shall not be used for any other purpose whatsoever.

§ 9. VIOLATION OF PROVISIONS OF ACT.] Any violation of the provisions of this act shall be deemed and punished as a misdemeanor, and any misappropriation of any of the funds provided for under the provisions of this act, including such as are to be levied and collected by taxation, or their use for any other purpose except as hereinbefore specified, or any portion thereof, shall be and is hereby declared to be a felony, punishable by imprisonment in the penitentiary not exceeding five years or by fine not exceeding double the amount of such misappropriation or use, or by both such fine and imprisonment.

§ 10. SPECIAL ELECTION.] Nothing herein contained shall be construed to authorize the issuing of such bonds unless a majority of all the legal voters present and voting shall vote in favor thereof, at a special or general election of the legal voters of said county as hereinbefore provided.

§ 11. ELECTION, BALLOTS, ETC.] The county commissioners of said county are hereby authorized and have all the needful power to call a special election of the legal voters of said Kingsbury county, to be held in the several voting precincts of said county, at any time after the taking effect of this law, but shall first give notice of such special election in the same manner as now required by law for general elections for the purpose of voting upon the question of issuing bonds. The voting at such election shall be by printed or written ballots with words, "For issuing court house and jail bonds, yes;" "For issuing court house and jail bonds, no." Said election shall be governed in the same manner, so far as applicable, as

provided by law for conducting general elections in this Territory, and the vote of said election shall be canvassed in the same manner as provided by law for canvassing votes for county officers; and if a majority of all the votes cast be found to be for issuing bonds, such bonds may issue as herein provided.

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

Approved, March 1, 1881.

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## CHAPTER 18.

### LAKE AND TURNER COUNTIES—COURT HOUSE AND JAIL.

AN ACT providing for the Erection and Construction of a Court House and Jail for the Counties of Lake and Turner, Dakota Territory.

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

§ 1. SPECIAL ELECTION TO AUTHORIZE CONSTRUCTION OF COURT HOUSE AND JAIL.] That the board of county commissioners of Lake and Turner counties, in Dakota Territory, are authorized and empowered and it is hereby made their duty under the provisions of this act, to erect and construct a suitable building or buildings for a court house and jail for said counties when authorized so to do by a majority of votes cast at any general or special election of said counties.

§ 2. DESCRIPTION OF BUILDINGS.] The board of county commissioners of said counties shall, after a majority of the voters at any general or special election have sanctioned such proceedings, cause to be prepared plans and specifications for a suitable building or buildings for the purposes hereinbefore provided; said buildings to include a jail, suitable rooms for all the county officers (which are required by law to be provided with offices), and for a court room, grand and petit jury rooms, and such other rooms as are usually provided for court and county purposes, to be included within one building or

more, as in the judgment and discretion of said board of county commissioners shall be deemed to be the most economical and advisable.

§ 3. SELECTION OF SITE.] The said board of county commissioners shall select the site thereof at the county seats of said counties, at such place as shall by them be deemed to furnish the best facilities for the transaction of the county and court business, and purchase the same at the most reasonable rates attainable, taking into consideration the location thereof, its eligibility and its proximity to the business portion of the town where such county seat is located.

§ 4. COST NOT TO EXCEED.] The cost of the purchase of the site thereof and of the construction of the court house and jail shall not exceed together with the complete furnishing thereof, ready for the transaction of court and county business, and for the safe and secure confinement of prisoners in said jail, the sum of fifteen thousand (\$15,000) dollars: *Provided, however,* That not to exceed five thousand (\$5,000) dollars shall be used in the construction of said jail and the furnishing thereof.

§ 5. TIME OF COMMENCEMENT AND COMPLETION.] Said building or buildings shall be commenced within six (6) months from the time a majority vote of the people has sanctioned such act or proceedings, and shall be entirely completed and ready for occupancy within one (1) year from the time said building or buildings were commenced.

§ 6. CONTRACT TO BE LET TO LOWEST BIDDER.] The erection and construction of said building or buildings shall be let by the board of county commissioners to the lowest bidder, after public advertisements for proposals for not less than three weeks in a weekly newspaper published in such county seat, and sufficient bonds shall be required by said board from the contractor, with not less than two responsible sureties, for the construction and completion of the said building or buildings, in accordance with the plans and specifications adopted by the board of county commissioners: *Provided, however,* That if in the judgment of the said board the lowest bid for such contract is too high they shall have the power to reject all bids and advertise anew, and this from time to time until a proper bid is secured.

§ 7. **ISSUE OF BONDS.]** For the purpose of providing funds to pay the cost of construction and furnishing said building or buildings, the board of county commissioners of such county are hereby authorized and empowered and it is hereby made their duty to prepare and issue the bonds of such county, running for a term or period of not less than ten (10) nor more than twenty (20) years, to be redeemable after the expiration of ten (10) years from the date of issue thereof, bearing not exceeding eight per cent. per annum interest, payable annually on the first day of July of each year, in denominations of not less than \$100 nor more than \$500 each, for a sum sufficient to pay the cost of the erection and construction of said building or buildings and the furnishing thereof, not exceeding the sum of fifteen thousand (\$15,000) dollars.

§ 8. **BONDS, INTEREST, ETC.]** Said bonds shall bear date on the day of issue, shall be payable in not less than ten (10) nor more than twenty (20) years after date, with a provision that such county may redeem such bonds after the expiration of ten (10) years from the date thereof, and principal and interest payable at the treasurer's office of the county seat of such county, and shall from time to time be sold by the said board of county commissioners at not less than par, in such sums as shall be sufficient to meet the obligations accruing under the provisions of the contract herein provided for, for the erection and construction of such building or buildings, and also to pay for the furnishing thereof and for the purchase of a site therefor.

§ 9. **PAYMENTS TO CONTRACTOR.]** The board of county commissioners shall have the power to provide in the contract for the terms of payment, and for the withholding from time to time such percentage from the value of the work as it progresses as shall insure a prompt and proper compliance by the contractor with the terms of said contract, and to provide such other matters and things as are usually necessary and requisite with reference to said contract: *Provided, however,* That the terms of payment from time to time shall be only so fast as the work progresses, with fifteen per cent. deduction therefrom, to insure the fulfillment of said contract, and such payments shall be in cash, and the erection and construction

of such building or buildings shall be at all times under the supervision and control of such board, or of any agent or agents such board may select for that purpose.

§ 10. TITLE TO GROUNDS.] The site to be secured shall be taken free and clear from all liens and encumbrances, and the title thereto shall be free and clear from all claims and demands, and shall be paid for out of the proceeds of the sale of such bonds, and the title thereto shall be taken in the name of the county making such purchase.

§ 11. REDEMPTION OF BONDS.] In issuing such bonds herein provided for the terms thereof shall provide that after the expiration of ten (10) years from the date thereof it shall be optional with such county at any time before they shall become due, to redeem the same at par and accrued interest at the date of such redemption, and in such amounts as the board of county commissioners or other lawful fiscal agents of such county shall from time to time determine, and under such rules and regulations as to notice thereof as they may prescribe.

§ 12. BOND TAX.] The board of county commissioners shall for the year such bonds are issued and each year thereafter, levy and collect a tax sufficient to pay the interest on such bonds promptly as it shall become due and payable, and for the payment thereof at or before their maturity, as in section eleven provided; and after the expiration of ten (10) years from their date they shall levy and collect a sinking fund tax for the payment of such bonds sufficient to redeem the same within the period of their maturity, and as fast as such sinking fund shall become available they shall redeem such bonds under the provisions of said section eleven aforesaid.

§ 13. BOND FUND NOT TO BE USED FOR OTHER PURPOSE.] The moneys levied and collected for the payment of the interest or principal of such bonds shall not be issued for any other purpose, but shall be held and appropriated solely for the payment of such principal and interest under the provisions of this act.

§ 14. VIOLATION OF PROVISIONS OF THIS ACT A MISDEMEANOR.] Any willful violation of any of the provisions of this act shall be deemed and held to be and punishable as a misdemeanor, and a misappropriation of any of the bonds or funds pro-

vided for under the provisions of this act, including such as are to be levied and collected by taxation, or their use for any other purpose except as herein specified, or of any portion thereof, shall be and it is hereby declared to be a felony and punishable by imprisonment in the penitentiary not exceeding five years or by fine not exceeding double the amount of such misappropriation or use, or by both such fine and imprisonment.

§ 15. COMMISSIONERS MAY RENT BUILDINGS.] The board of county commissioners of such county shall have authority to rent such court house and jail to the United States for court and jail purposes, reserving its use for all needed county purposes, and the money therefrom received shall be appropriated to the payment of the interest on such bonds, and if more than sufficient therefor to the payment of the principal thereof; and as such rent moneys shall become available, the taxes for such interest or principal shall be in like sum reduced.

§ 16. SPECIAL ELECTION.] Nothing in this act shall be so construed as to authorize the commissioners of said counties to carry out the provisions of this act until after they have been so authorized by a majority of the votes of legal voters cast at any general or special election in said counties, and the question of authority shall be decided in the following manner, viz: Such board may at any special or regular meeting submit to a vote of the qualified voters of such county the question, whether the bonds of the county shall be issued and sold to raise money necessary to enable such county to erect a court house and jail, or either such court house or jail. The question may be submitted to the voters at any general election or at a special election called by the board for that purpose not within sixty days of the date for any general election. At least thirty days' notice must be given of the question to the voters of the county before such election, in the same manner that other election notices are given, published, served and posted; and in such notices the precise amount of bonds, and the purpose of their issue, shall be clearly and especially stated.

§ 17. BALLOTS, ETC.] At such election there shall be written or printed on the ballots the words, "For.....bonds" or "Against .....bonds," and in addition the words

“Court House,” or the word “Jail,” or the words “Court House and Jail,” in such blank space as the special question to be submitted may require. If a majority of the votes so cast be against such bonds, then they shall not be issued, or any part thereof, and no proceedings shall be had under this act. If a majority of votes so cast be in favor of such bonds, then they shall be issued, and such county commissioners shall proceed forthwith under the provisions of this act.

§ 18. PROPOSITION MAY BE SUBMITTED SEPARATELY.] Either proposition herein provided for may be submitted to the vote of any county, whether or not such county has voted upon any other proposition to build court house and jail, or either.

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

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

Approved, March 3, 1881.

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## CHAPTER 19.

### LAWRENCE COUNTY COURT HOUSE AND JAIL.

AN ACT Providing for the Erection and Construction or Purchase of a Court House and Jail for the County of Lawrence.

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

§ 1. COMMISSIONERS AUTHORIZED TO CONSTRUCT.] That the board of county commissioners of Lawrence county are authorized and empowered and it is hereby made their duty under the provisions of this act to either purchase, or erect and construct a suitable building or buildings for a court house and jail, with rooms for jailor, for said Lawrence county, Dakota Territory.

§ 2. SHALL CAUSE PLANS TO BE PREPARED, ETC.] The board of county commissioners of said county shall immediately after the passage of this act, if they determine to erect and construct said building or buildings, cause to be prepared plans and specifications for the purposes herein before provided. Said buildings to provide for a jail, suitable rooms for all the county officers that are required by law to be provided with offices, and for a court room, grand and petit jury rooms, and such other rooms as are usually provided for court and county purposes, to be included within one building, or more, as within the judgment and discretion of said board of county commissioners shall be deemed to be the most economical and otherwise the most advisable.

§ 3. SELECTING SITE.] The board of county commissioners shall select a site thereof at the county seat, to-wit: In Deadwood, at such place as shall by them be deemed to furnish the best facilities for the transaction of the county and court business, and purchase the same at the most reasonable rates attainable, taking into consideration the location thereof, its eligibility and its proximity to the business portion of said town of Deadwood.

§ 4. COST, NOT TO EXCEED.] The cost of the purchase of the site therefor and for the construction of the court house and jail shall not exceed, all told, together with the complete furnishing thereof, ready for transaction of court and county business, and for the safe and secure confinement of prisoners in said jail, the sum of (\$20,000.00) twenty thousand dollars.

§ 5. TIME IN WHICH SHALL BE CONSTRUCTED.] Said building or buildings shall be constructed during the season of 1881; shall be commenced on or before the first day of June 1881, and shall be entirely completed and ready for occupancy on or before the first day of December, 1881.

§ 6. LETTING CONTRACT.] The erection and construction of said building or buildings shall be let by the board of county commissioners to the lowest bidder, after advertisement for public proposals for not less than four weeks in the daily newspapers published at said town of Deadwood, and sufficient bonds shall be required by the said board from the contractor, with not less than two responsible sureties, for the construction and completion of said building or buildings, in

accordance with the plans and specifications adopted by the board of county commissioners; *Provided, however:* That if, in the judgment of the said board, the lowest bid for such contract is too high, they shall have the power to reject all bids and advertise anew and this from time to time until a proper bid is received.

§ 7. BONDS TO BE ISSUED.] For the purpose of providing funds to pay the cost and construction and furnishing of said building or buildings, the board of county commissioners are hereby authorized and empowered and it is made their duty to prepare and issue the bonds of said county, running for a term or period of twenty years, bearing not exceeding eight per cent. per annum interest, payable semi-annually on the first days of July and January of each year, in denominations of \$500.00 each, for a sum sufficient to pay the cost of the erection and construction of said building or buildings and the furnishing thereof, not exceeding the sum of (\$16,000.00) sixteen thousand dollars.

§ 8. BONDS—DESCRIPTION OF, AMOUNT, ETC.] Said bonds shall bear date on the first day of July 1881, shall be payable twenty years after date and principal and interest payable at the treasurer's office of the said county of Lawrence, and shall from time to time be sold by the said board of county commissioners, at not less than par, in such sums as shall be sufficient to meet the obligations accruing under the provisions of the contract herein provided for, for the erection and construction of said buildings, and also to pay for the furnishing thereof and for the purchase of a site therefor.

§ 9. TERMS OF PAYMENTS TO CONTRACTORS.] The board of county commissioners shall have the power to provide in the contract for the terms of payment and for withholding from time to time such per centage from the value of the work as it progresses as shall insure a prompt and proper compliance by the contractor with the terms of said contract, and to provide such other matters and things as shall be usually necessary and requisite with reference to such contract; *Provided, however:* That the terms of payment, from time to time, shall be only so fast as the work progresses, with fifteen per cent. deduction therefrom to insure the fulfillment of said contract and such payments shall be in cash, and the erection and

construction of said building or buildings shall be at all times under the supervision and control of said board or of any agent such board may select for that purpose.

§ 10. TITLE TO GROUNDS.] The site to be secured shall be taken free and clear from all liens and incumbrances, and the title thereto shall be free and clear from all claims and demands, except as against the United States, and shall be paid for out of the proceeds of the sale of said bonds, and the title therefor shall be taken in the name of the county of Lawrence.

§ 11. SALE OF PRESENT JAIL AND GROUNDS.] The said board of county commissioners are hereby authorized to sell and dispose of the present jail and jail site and also all other grounds in and about said Deadwood and its vicinity owned or claimed by said Lawrence county for the best attainable terms, at public vendue or private sale, and through the chairman of the board, under the seal of said county, transfer the title thereto to said purchaser and appropriate the proceeds thereof toward the purchase of the court house and jail site, to be erected under the provision of this act, or the erection and construction of said building or buildings or the furnishing thereof.

§ 12. COMMISSIONERS MAY PURCHASE BUILDINGS.] If the said board of county commissioners determine to purchase a building for court house and other purposes, as herein mentioned, they are hereby authorized and empowered to issue the bonds of Lawrence county in the manner and upon the terms as provided in section 7, in an amount not exceeding twelve thousand dollars, in full payment for a clear and perfect title, except as to the United States, to such building or buildings as they may so purchase with adjacent grounds sufficient to erect thereon a jail and other buildings needed by said county; and they are further authorized and empowered to erect a jail in the manner provided in section 6, and shall use the funds derived from the sale of county property, as provided in section 11, to defray expense of building said jail as far as the same may go, and the entire expense of constructing said jail and all additions and repairs to any building they may purchase shall not exceed the sum of four thousand dollars.

§ 13. REDEMPTION OF BONDS.] In issuing said bonds, as is

in either case provided for, the terms thereof shall provide that after the expiration of ten years from the date thereof it shall be optional with the said county, at any time before they shall become due to redeem the same at par and accrued interest at the date of the redemption, at such times and in such amounts as the board of county commissioners or other lawful fiscal agent of said county shall from time to time determine, and under such rules and regulations as to notice thereof as they may prescribe.

§ 14. SPECIAL ELECTION.] It is further provided that the county commissioners of Lawrence county are hereby authorized and empowered and it is hereby made their duty to call a special election of the voters of the county, at such time as in their judgment they may deem proper and under the law governing elections, for the purpose of voting "For" or "Against" court house bonds, and if a majority of the votes so polled shall be "For court house bonds," that the board of county commissioners shall proceed as in this act provided, and if a majority of the votes so polled shall be "Against court house bonds," that then and in that case this act shall have no force and effect; *Provided, however:* That nothing in this act shall be construed to authorize the issue of any bonds by the board of county commissioners of Lawrence county, unless the question regarding the issue of the same shall have been submitted to the voters in said Lawrence county, as provided for in the first part of this section.

§ 15. BOND TAX.] The board of county commissioners shall for the year 1881, and each year thereafter, levy and collect a tax sufficient to pay the interest on said bonds promptly as it shall become due and payable, and for the payment thereof at or before their maturity as in section 13 provided, and after ten years they shall levy and collect a sinking fund tax for the payment of said bonds sufficient to redeem the same within the period of their maturity, and as fast as such sinking fund shall become available, they shall redeem such bonds under the provisions of said section 13, aforesaid.

§ 16. BOND TAX SHALL BE USED FOR NO OTHER PURPOSE.] The moneys levied and collected for the payment of the interest or principal of said bonds shall not be used for any other

purpose, but shall be held and appropriated solely for the payment of said principal and interest, under the provisions of this act.

§ 17. VIOLATION OF PROVISIONS OF ACT—HOW PUNISHABLE.] Any willful violation of any of the provisions of this act shall be deemed and held to be and punishable as a misdemeanor, and a misappropriation of any of the bonds or funds provided for under the provisions of this act, including such as are to be levied and collected by taxation, or their use for any other purpose except as herein specified, or of any portion thereof shall be and it is hereby declared to be a felony and punishable by imprisonment in the penitentiary not exceeding five years, or by fine not exceeding double the amount of such misappropriation or use, or by both such fine and imprisonment.

§ 18. MAY RENT COURT HOUSE AND JAIL TO UNITED STATES.] The board of county commissioners of said county shall have authority to rent said court house and jail to the United States for court and jail purposes, reserving its use for all needed county purposes, and the moneys therefrom received shall be appropriated to the payment of the interest on said bonds, and if more than sufficient therefor, to the payment of the principal thereof, and as such rent moneys shall become available, the taxes for such interest or principal shall be in like sum reduced.

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

Approved, February 21, 1881.

## CHAPTER 20.

## MINNEHAHA COUNTY JAIL.

AN ACT to Authorize the County Commissioners of Minnehaha County to issue Bonds of said County to complete a County Jail, and for other Purposes.

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

§ 1. AUTHORITY TO ISSUE BONDS.] The county commissioners of Minnehaha county are authorized to issue bonds of said county to the amount of three thousand dollars, bearing interest at the rate of seven per cent. per annum, the interest payable annually, for the purpose of completing the county jail in said county, and providing suitable iron cells therein for the retention of such prisoners as may be committed thereto: *Provided*, That no greater amount of said bonds shall be issued than is actually required for the purposes herein named, and that said bonds shall not be sold or in any manner disposed of for less than their nominal value.

§ 2. AUTHORITY TO REFUND INDEBTEDNESS.] The county commissioners of said county are authorized to refund all their outstanding indebtedness, including all audited accounts against said county as the same existed on the 10th day of January, 1881, which have not since been paid, and issue in lieu of bonds and other written obligations to pay money out of the county treasury, bonds of said county payable in ten years from their date at the rate of seven per cent. per annum, the interest payable annually: *Provided*, It shall be at the option of the holders of bonds already issued to accept such reissue of bonds in exchange therefor, whether such bonds bear the same or a different rate of interest.

§ 3. DENOMINATION AND DESCRIPTION OF JAIL BONDS.] The bonds issued for the purpose of completing the jail shall be in denominations not less than one hundred nor more than one thousand dollars each, and shall be either lithographed or printed with interest coupons attached and the words "Jail Bond Act of 1881," printed upon the margin, and shall be

signed by the chairman of the board of county commissioners, attested by the county clerk under seal. They shall be numbered and registered by the county clerk in a book provided for that purpose and called the "Bond Register," in which shall be entered the date, number and amount of each bond, and the name of the person to whom the same was issued.

§ 4. REFUNDING BONDS.] The bonds issued for the purpose named in section 2 of this act shall be of denomination of not less than fifty nor more than one thousand dollars, and shall be either lithographed or printed, signed by the chairman of the board of county commissioners and attested by the clerk under official seal, with interest coupons attached, and on the margin shall be printed the words, "Reissue of Bonds under act of 1881," and on the back of said bonds shall be printed the words, "Issued in lien of bond No....., dated.....," which blanks shall be filled by the clerk in accordance with the facts when issued.

§ 5. REGISTERING.] Said bonds shall likewise be registered as provided for other bonds in section 3 of this act.

§ 6. MAY PURCHASE BONDS NOW OUTSTANDING.] The county commissioners may in their discretion go upon the market and purchase any bonds of said county now outstanding and bearing a higher rate of interest than seven per cent., whenever such bonds can be purchased for their nominal value and accrued interest, and issue in lieu thereof other bonds as herein provided, and negotiate the same for not less than their nominal value.

§ 7. CANCELLING REDEEMED BONDS.] Whenever any bonds of said county now outstanding shall have been exchanged for other bonds or purchased by the county commissioners, said bonds shall be cancelled by writing or printing in red ink across the face of each bond the words, "Cancelled and paid by issuing bond No..... in lieu thereof," and the coupons shall be cancelled by making a hole through each coupon with a punch provided for the purpose, and each bond so cancelled shall be registered in the same manner as provided for registering new bonds with the date of their cancellation added, and the cancelled bonds shall then be filed in the office of the register of deeds for reference, until all such outstanding bonds shall have been exchanged or paid, when they shall be

destroyed by the county commissioners in presence of the county treasurer and register of deeds.

§ 8. BOND TAX.] After five years the county commissioners of said county shall levy a tax of two mills upon each dollar of the assessed valuation of all the property assessed in said county, to be collected as other taxes are collected, for a sinking fund, to be used in payment of any bonds of said county when the same shall become due; and said commissioners in their discretion, whenever there shall be any funds in the treasury for the purpose, may purchase any such bonds and pay for the same out of such sinking fund, which bonds shall be cancelled in a similar manner as provided for the cancellation of other bonds.

§ 9. VIOLATING PROVISIONS OF ACT. PENALTY.] Any violation of the provisions of this act shall be deemed a misdemeanor, and punishable by fine not exceeding one hundred dollars; and any conversion or misappropriation of the bonds or money that may be issued or obtained under the provisions of this act shall be deemed a felony, and punished by a fine not exceeding five hundred dollars, in the discretion of the court before whom convicted, or by imprisonment in the territorial prison not exceeding five years or by both such fine and imprisonment.

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

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TERRITORY OF DAKOTA, }  
Yankton, February 21, 1881. }

This act being an act, entitled "An act to authorize the county commissioners of Minnehaha county to issue bonds of said county to complete a county jail, and for other purposes," originated in the House of Representatives of this Territory; passed the House, February 8, 1881, and was transmitted to the Council and passed that body February —, 1881; was presented to the Governor of this Territory on the 16th day of February, 1881, and returned without his approval February 19, 1881, and accompanied by his objections, which were entered at length upon the journal, and the communication was considered by the House on February 19, 1881. The question being, "Shall the bill pass, notwithstanding the objections of the Governor?" and the bill was passed, the necessary two-thirds of all members voting in the

affirmative. And to these facts of the action of the House, I hereby certify of my own knowledge.

Attest:

FRANK J. MEAD,  
*Chief Clerk of the House.*

J. A. HARDING,  
*Speaker of the House.*

COUNCIL CHAMBER,  
Yankton, February 21, 1881. }

I hereby certify that on this 21st day of February, 1881, the foregoing bill, together with the objections of the Governor, was received from the House by the Council; and the Council thereupon proceeded to reconsider said bill, and the question being put, "Shall the bill pass, the objections of the Governor to the contrary notwithstanding?" it was decided in the affirmative, two-thirds of the Council voting to pass the bill, and then it was approved by the Council.

Attest:

E. B. DAWSON,  
*Chief Clerk.*

GEO. H. WALSH,  
*President.*

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## CHAPTER 21.

### MORTON COUNTY—SCHOOL DISTRICT No. 1.

AN ACT to authorize School District No. 1, of the County of Morton, to issue Bonds for the purpose of building a School House.

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

§ 1. AUTHORIZED TO ISSUE BONDS. DESCRIPTION OF, ETC.] That the district officers of school district number one, in the county of Morton and Territory of Dakota, be empowered and are hereby authorized to issue bonds of one hundred dollars each, and to the extent of five thousand dollars, or so much as may be necessary, not exceeding that sum, for the purpose of building a school house in said school district, which bonds shall be payable in five years from date of issue, and shall draw interest from the date thereof, at a rate not exceeding eight per centum per annum, said interest to be payable annually, and principal and interest to be payable at such place or places as said school district officers may designate in said bonds. The bonds shall specify upon their faces the date, amount, for what purpose issued, the time and place of payment, and the rate of interest; shall be printed or lithographed

on good paper with coupons attached for each year's interest, and said bonds and coupons thereto attached shall be severally signed by the director, clerk and treasurer of said district.

§ 2. SALE OF BONDS, ETC.] Said bonds shall be sold by the district board of said school district for not less than their par value, and the proceeds of such sale shall be paid to the said school district treasurer, and shall be used for the purpose of building and furnishing a school house and buying apparatus for the same under the direction of the said school board.

§ 3. BOND TAX.] The officers of said school district are hereby granted all needful authority to levy taxes from time to time, not to exceed one per cent. per annum on the taxable property of said school district in addition to the tax already allowed by law; said tax to be for the purpose of paying the interest on said bonds promptly when due, and for creating a sinking fund for the payment of the principal when due.

§ 4. SCHOOL DISTRICT CLERK TO NOTIFY COUNTY CLERK, ETC.] It shall be the duty of the district clerk to notify the clerk of said county of Morton of the amount of said tax so levied by said board in the same manner as is now provided by law for notifying county clerks of the amount of taxes voted by district school meetings, and the said county clerk is hereby required to spread said tax upon the assessment rolls in the same manner as other school district taxes are so spread; and it shall be the duty of the treasurer of said Morton county to collect said taxes in the same manner as other taxes are, and may be collected by him, and when so collected to pay them over to said district treasurer in the manner in which other school moneys are paid over to school district treasurers.

§ 5. SPECIAL ELECTION.] Nothing herein contained shall be construed to authorize the issuing of such bonds unless a majority of the legal voters present and voting shall vote in favor thereof at a special school meeting, to be called upon like notice and in the same manner as now provided by law for calling school district meetings: *And provided*, That said voting shall be by printed or written ballots with the words, "For issuing school bonds" or "Against issuing school bonds;" and if a majority of all the votes cast be found to be in favor

of issuing the bonds, such bonds may issue as herein provided.

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

Approved, February 25, 1881.

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## CHAPTER 22.

### PEMBINA COUNTY—COURT HOUSE AND JAIL.

AN ACT Providing for the Erection and Construction of a Court House and Jail for the County of Pembina.

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

§ 1. AUTHORITY TO CONSTRUCT BUILDINGS.] That the board of county commissioners of Pembina county are authorized and empowered and it is hereby made their duty under the provisions of this act to erect and construct a suitable building or buildings for a court house and jail, for said Pembina county, Dakota Territory.

§ 2. PLANS AND SPECIFICATIONS.] The board of county commissioners of said county shall immediately after the passage of this act. cause to be prepared plans and specifications for a suitable building or buildings for the purposes herein before provided. Said buildings to provide for a jail, suitable rooms for all the county officers that are required by law to be provided with offices, and for a court room, grand and petit jury rooms, and such other rooms as are usually provided for court and county purposes, to be included within one building, or more, as in the judgment and discretion of said board of county commissioners shall be deemed to be the most economical and otherwise the most advisable.

§ 3. LOCATION.] The said board of county commissioners shall select the site thereof at the county seat, to-wit: In Pembina, at such place as shall by them be deemed to fur-

nish the best facilities for the transaction of the county and court business, and purchase the same at the most reasonable rates attainable, taking into consideration the location thereof, its eligibility and its proximity to the business portion of said town of Pembina.

§ 4. TOTAL COST.] The cost of the purchase of the site therefor and for the construction of the court house and jail shall not exceed, all told, together with the complete furnishing thereof, ready for transaction of court and county business, and for the safe and secure confinement of prisoners in said jail, the sum of (\$15,000) fifteen thousand dollars.

§ 5. WHEN TO BE COMPLETED.] Said building or buildings shall be constructed during the season of 1881; shall be commenced on or before the first day of June, 1881, and shall be entirely completed and ready for occupancy on or before the first day of December, 1881.

§ 6. LETTING CONTRACT.] The erection and construction of said building or buildings shall be let by the board of county commissioners to the lowest bidder, after advertisement for public proposals for not less than four weeks in the weekly newspapers published at said town of Pembina, and sufficient bonds shall be required by the said board from the contractor, with not less than two responsible sureties, for the construction and completion of said building or buildings, in accordance with the plans and specifications adopted by the board of county commissioners.

§ 7. BONDS TO BE ISSUED.] For the purpose of providing funds to pay the cost and construction and furnishing of said building or buildings, the board of county commissioners are hereby authorized and empowered and it is made their duty to prepare and issue the bonds of said county, running for a term or period of twenty years, bearing not exceeding ten per cent. per annum interest, payable semi-annually on the first days of July and January of each year, in denominations of \$500.00 each, for a sum sufficient to pay the cost of the erection and construction of said building or buildings and the furnishing thereof, not exceeding the sum of (\$15,000.00) fifteen thousand dollars.

§ 8. DESCRIPTION AND SALE OF BONDS.] Said bonds shall

bear date on the first day of July 1881, shall be payable twenty years after date and principal and interest payable at the treasurer's office of said county of Pembina, and shall from time to time be sold by the said board of county commissioners, at not less than par, in such sums as shall be sufficient to meet the obligations accruing under the provisions of the contract herein provided for, for the erection and construction of said buildings, and also to pay for the furnishing thereof and for the purchase of a site therefor.

§ 9. TERMS OF PAYMENTS TO CONTRACTORS.] The board of county commissioners shall have the power to provide in the contract for the terms of payment and for withholding from time to time such per centage from the value of the work as it progresses as shall insure a prompt and proper compliance by the contractor with the terms of said contract, and to provide such other matters and things as shall be usually necessary and requisite with reference to such contract; *Provided, however:* That the terms of payment, from time to time, shall be only so fast as the work progresses, with fifteen per cent. deduction therefrom to insure the fulfillment of said contract and such payments shall be in cash, and the erection and construction of said building or buildings shall be at all times under the supervision and control of said board, or of any agent such board may select for that purpose.

§ 10. TITLE TO SITE, ETC.] The site to be secured shall be taken free and clear from all liens and encumbrances, and the title thereto shall be free and clear from all claims and demands, except as against the United States, and shall be paid for out of the proceeds of the sale of said bonds, and the title therefor shall be taken in the name of the county of Pembina.

§ 11. SALE OF PRESENT BUILDINGS.] The said board of county commissioners are hereby authorized to sell and dispose of the present jail and jail site, and also all other grounds in and about said Pembina and its vicinity, owned or claimed by said Pembina county, for the best attainable terms at public vendue or private sale and through the chairman of said board, under the seal of said county, transfer the title thereto to said purchaser and appropriate the proceeds thereof towards the purchase of the court house and jail site, to be erected under the provisions of this act, or the erection and

construction of said building or buildings or the furnishing thereof.

§ 12. JAIL—WHAT TO CONTAIN.] The said board of county commissioners shall in their plan for the construction of said building or buildings include suitable rooms for the residence of a jailor and family, if the funds herein provided shall be sufficient therefor, in addition to the erection and construction of and furnishing of the court house, and county offices and county jail.

§ 13. REDEMPTION OF BONDS.] In issuing said bonds herein provided for the terms thereof shall provide that after the expiration of ten (10) years from the date thereof it shall be optional with the said county at any time before they shall become due, to redeem the same at par and accrued interest at the date of the redemption, at such times and in such amounts as the board of county commissioners or other lawful fiscal agents of said county shall from time to time determine, and under such rules and regulations as to notice thereof as they may prescribe.

§ 14. BOND TAX.] The board of county commissioners shall for the year 1881 and each year thereafter, levy and collect a tax sufficient to pay the interest on said bonds promptly as it shall become due and payable, and for the payment thereof at or before their maturity, as in section 13 provided; and after the expiration of ten years they shall levy and collect a sinking fund tax for the payment of said bonds sufficient to redeem the same within the period of their maturity, and as fast as such sinking fund shall become available they shall redeem such bonds under the provisions of said section 13 aforesaid.

§ 15. BOND TAX NOT TO BE USED FOR ANY OTHER PURPOSE.] The moneys levied and collected for the payment of the interest or principal of such bonds shall not be issued for any other purpose, but shall be held and appropriated solely for the payment of said principal and interest under the provisions of this act.

§ 16. VIOLATION OF PROVISIONS OF THIS ACT A MISDEMEANOR.] Any willful violation of any of the provisions of this act shall be deemed and held to be and punishable as a misdemeanor, and a misappropriation of any of the bonds or funds pro-

vided for under the provisions of this act, including such as are to be levied and collected by taxation, or their use for any other purpose except as herein specified, or of any portion thereof, shall be and it is hereby declared to be a felony and punishable by imprisonment in the penitentiary not exceeding five years or by fine not exceeding double the amount of such misappropriation or use, or by both such fine and imprisonment.

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

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HALL OF THE HOUSE OF REPRESENTATIVES, }  
Yankton, Dakota, Feb. 8th, 1881.

I hereby certify that on this day this act was returned to the House in which it originated, without the approval of his excellency Governor N. G. Ordway with his objections to this bill in writing. His objections were entered at large upon the journal of the House, and the House proceeded to reconsider the bill, and after such reconsideration, two-thirds of the House voted to pass the bill, the objections of the governor to the contrary notwithstanding.

J. A. HARDING,

*Speaker of the House*

FRANK J. MEAD,

*Chief Clerk of the House.*

COUNCIL CHAMBER, }  
Yankton, D. T., Feb. 9th, 1881.

I hereby certify that on this 9th day of February, 1881, the foregoing bill, together with the objections of the Governor, was received from the House of Representatives by the Council, and the Council thereupon proceeded to reconsider said bill, and the question being put, "shall the bill pass, the objections of the Governor to the contrary notwithstanding?" it was decided in the affirmative, two-thirds of the Council voting to pass the bill, and then it was approved by the Council.

Attest:

E. B. DAWSON,

*Chief Clerk of the Council.*

GEO. H. WALSH,

*President of the Council.*

## CHAPTER 23.

## PEMBINA COUNTY—FUNDING INDEBTEDNESS.

AN ACT authorizing the Board of County Commissioners of Pembina County to Fund the Outstanding Indebtedness thereof.

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

§ 1. COMMISSIONERS AUTHORIZED TO FUND INDEBTEDNESS.] That the board of county commissioners of the county of Pembina are hereby authorized to fund such indebtedness of said county as may exist on the first day of July, 1881, in manner by this act provided.

§ 2. BONDS TO ISSUE IN PAYMENT OF WARRANTS.] That said board of county commissioners on and after the first day of July, 1881, shall have the authority and it is hereby made their duty to provide, that whenever warrants drawn for any portion of the indebtedness hereinbefore mentioned shall be presented to the county treasurer in sums of fifty dollars and upwards, for the purpose of being funded, that such warrants shall be taken up, the interest thereon calculated to the first day of July, 1881, and in lieu thereof and in payment of said warrants, that the bonds of said county in denominations of not less than fifty dollars, bearing date and with appropriate coupons for the interest attached to such bonds, and payable as hereinafter mentioned, be issued to the holders of such warrants.

§ 3. BONDS, DATE AND INTEREST.] Such bonds shall be dated the first day of July, 1881, shall be payable ten years after date and shall bear interest at the rate of not to exceed ten per cent. per annum, payable annually on the first day of March at the county treasurer's office in said county, and the principal thereof shall be there payable.

§ 4. BOND TAX.] It shall be the duty of the board of county commissioners of said county to fund the outstanding indebtedness as herein provided, to levy and collect annually a tax in cash sufficient to pay the interest on said bonds, and after eight years they shall levy and collect in addition thereto annually a sinking fund bond tax sufficient to pay the principal of such bonds by the time they shall become due and pay-

able; and with such sinking fund bond tax as fast as the same is collected they shall go into the market and buy up such bonds and retire the same, and such interest tax and sinking fund bond tax shall not be used for any other purpose: *Provided*, That no more than par value shall be paid for said bonds. In retiring such bonds it shall be the duty of the county commissioners to advertise for thirty days previous to the first day of March in each year, in the official paper of said county, inviting holders of such bonds to make bids of the price in cash at which they will sell their bonds to the county; and said county commissioners shall buy such bonds so offered, as far as the "sinking fund bond tax" in the hands of the county treasurer on the said first day of March will permit, at the lowest prices offered, not to exceed the par value of the same.

§ 5. WHAT INDEBTEDNESS TO BE FUNDED.] The said outstanding indebtedness which shall exist on the said first day of July, 1881, shall be funded as herein provided, and any and all persons shall have until the first of January, 1882, to bring in warrants in their possession drawn on such funds, and receive the bonds as before provided and no longer.

§ 6. COMMISSIONERS TO MAKE PROVISION—WHEN.] The county commissioners of said county shall at the first session of their board after the passage of this act, make such provisions as shall be necessary and proper for carrying out the provisions of this act, or as soon thereafter as it can reasonably be done; and such bonds shall be either printed or lithographed, and shall be executed by the chairman of the board of county commissioners for the county aforesaid, and shall be under the seal of the county and attested by the clerk thereof; shall be payable to the persons respectively presenting such warrants, or bearer.

§ 7. DISPOSITION OF WARRANTS.] When such warrants are so taken up and paid by the issue of bonds as herein provided, such warrants shall be marked, "Paid by bond No. ....," (giving number of bond), and shall be retained by the county treasurer until his settlement with the county commissioners, and shall then be carefully compared with the bond register and if found to correspond therewith shall be then destroyed; and to facilitate settlement with such board,

the county treasurer shall endorse upon each warrant so taken up and paid the amount of interest allowed thereon.

§ 8. BOND REGISTER.] The county treasurer of Pembina county shall provide himself with a book to be called, "The Bond Register," wherein he shall note the number of bonds issued, the date when issued, the party to whom issued and the amount of the warrant and the amount of interest thereon for which such bond was exchanged, and such other facts as he shall be required thereunto by the county commissioners; and such register shall immediately after the first day of October, 1881, be deposited with the county clerk and shall remain in his office as a public record.

§ 9. CONCERNING JUDGMENTS.] The outstanding indebtedness of said county which shall exist on the first day of July, 1881, only shall be funded; and if judgment shall be rendered against said county on any of the warrants herein mentioned, no tax shall be levied to pay such judgment for eight years from and after the rendition of the same, nor shall any execution be issued against the property of the said Pembina county on said judgment for said eight years from the date thereof.

§ 10. ISSUE OF WARRANTS PROHIBITED UNLESS MONEY IN TREASURY.] That on and after the first day of July, 1881, no warrant or warrants shall be drawn or issued on the treasurer of Pembina county by the commissioners of the said county until after the tax for redeeming the same shall have been collected and actually paid into the county treasury, and shall therein remain applicable to the payment of all warrants so issued by the said county commissioners.

§ 11. WARRANTS HEREAFTER ISSUED.] All county warrants which shall be issued on and after the first day of July, 1881, shall be numbered and registered by the county commissioners in the regular order of their issue, in a register or book kept in their office for that special purpose, and a duplicate copy of the said register shall be kept by the county treasurer in his office, both of which registers shall be at all times open to inspection by the public during office hours, and all county warrants so issued, numbered and registered shall be paid in the regular order in which they were issued, numbered and registered, and in no other manner; and whenever any county warrant so registered shall be paid by the

county treasurer, the amount paid thereon and the date of payment thereof shall be written opposite the number of the warrant or warrants so paid by the county treasurer on his register.

§ 12. PAYING WARRANTS. BONDED DEBT PREFERRED.] Whenever any county warrant which may be issued on or after the first day of July, 1881, shall remain outstanding and unpaid, the county treasurer shall from the moneys in the county treasury enclose and seal up in a package the amount due on said outstanding warrant, as shown by the warrant register, and in the regular order of the issue, and mark thereon the amount of money enclosed therein, and the number of the warrant to be paid therewith, and deposit the same in the treasury safe to be kept there until the said warrant shall be presented for payment, at which time the county treasurer shall pay the same, and shall take up and cancel said warrant: *Provided, however,* That the interest on the bonds issued for funding the outstanding indebtedness of the county shall be held to be a preferred claim against the county, and the same shall be paid before any other claim against said county from the funds in the treasury.

§ 13. BOND TAX.] The county commissioners may annually cause to be levied and collected a tax not to exceed twenty-five per cent. in excess of the estimated amount required for county purposes, and the surplus tax so levied and collected shall go to create a sinking fund to defray the extraordinary expenses of said county.

§ 14. VIOLATIONS.] Each and every violation of any of the provisions of this act shall be held to be a misdemeanor.

§ 15. This act shall take effect and be in force from and after its passage and approval, and it amends and modifies all acts and parts of acts inconsistent with its provisions so far only as it is necessary to carry this act into effect.

ENDORSED.—Received at Executive Office, February 11, 1881, at 2:45 P. M.

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 House 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 24.

## PEMBINA COUNTY—SCHOOL DISTRICT No. 1.

AN ACT authorizing School District No. (1) one, of the County of Pembina, to issue Bonds for the purpose of Building and Furnishing a School House.

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

§ 1. DISTRICT OFFICERS TO ISSUE BONDS TO BUILD SCHOOL HOUSE.] That the district officers of school district No. 1, in the county of Pembina and Territory of Dakota, be empowered and are hereby authorized to issue bonds of one hundred dollars each, to the amount of eight thousand dollars, payable in not exceeding ten years, for the purpose of building and furnishing a school house in said school district; which bonds shall draw interest from the date thereof, payable annually, at a rate not exceeding ten per cent. per annum. The bonds shall specify on their face the date, amount, for what purpose issued, the time and place of payment and rate of interest; shall be printed on good paper with coupons attached for each year's interest, and the amount of each year's interest shall be placed in corresponding coupons until such bonds shall become due in a manner so as to have the last coupon fall due the same time as the bond. Said bonds and coupons thereto attached shall be severally signed by the director, clerk and treasurer of said school district. Said bonds and interest to be made payable at such place or places as said school district officers may designate in said bonds.

§ 2. HOW DISPOSED OF.] Said bonds may be issued in satisfaction of the building of such school house, or may be sold for not less than 90 cents on the dollar, and the avails of such sale shall be used in paying off the indebtedness incurred by the building and furnishing of such school house.

§ 3. MAY LEVY TAXES.] The officers of said school district are hereby granted all the needful authority to levy taxes from time to time not to exceed one per cent. of the taxable property in said school district. in addition to the tax already allowed by law; said tax to be for the purpose of paying the

interest on said bonds promptly when due, and for creating a sinking fund for paying the principal of said bonds when due.

§ 4. TREASURER OF COUNTY TO COLLECT TAX.] It shall be the duty of the treasurer of said county of Pembina to collect the tax herein provided for in the same manner, and to sell property when the tax thereon is delinquent, as in other cases as provided by law, and to turn the tax collected by him over to the treasurer of said school district as in other cases provided by law.

§ 5. SPECIAL ELECTION.] Nothing in this act shall be construed to authorize the issuing of such bonds unless a majority of all the legal voters present and voting shall vote in favor thereof, at an annual or special meeting of the legal voters of said district.

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

Approved, February 15, 1881.

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## CHAPTER 25.

### RICHLAND COUNTY—COURT HOUSE AND JAIL.

AN ACT Providing for the Erection and Construction of a Court House and Jail for the County of Richland.

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

§ 1. COMMISSIONERS AUTHORIZED TO CONSTRUCT BUILDINGS.] That the board of county commissioners of Richland county are authorized and empowered and it is hereby made their duty under the provisions of this act to erect and construct a suitable building or buildings for a court house and jail, for said Richland county, Dakota Territory.

§ 2. PLANS AND SPECIFICATIONS.] The board of county commissioners of said county shall immediately after the passage

of this act, cause to be prepared plans and specifications for a suitable building or buildings for the purpose herein before provided; said buildings to include a jail, suitable rooms for all the county officers which are required by law to be provided with offices, and for a court room, grand and petit jury rooms, and such other rooms as are usually provided for court and county purposes, to be included within one building, or more, as in the judgment and discretion of said board of county commissioners shall be deemed to be the most economical and advisable.

§ 3. SITE.] The said board of county commissioners shall select the site thereof at the county seat, to-wit: In Wahpeton, at such place as shall by them be deemed to furnish the best facilities for the transaction of the county and court business, and purchase the same at the most reasonable rates attainable, taking into consideration the location thereof, its eligibility and its proximity to the business portion of said town of Wahpeton.

§ 4. TOTAL COST.] The cost of the purchase of the site thereof and of the construction of the court house and jail shall not exceed, together with the complete furnishing thereof, ready for transaction of court and county business, and for the safe and secure confinement of prisoners in said jail, the sum of (\$15,000) fifteen thousand dollars.

§ 5. COMMENCED AND COMPLETED.] Said building or buildings shall be constructed during the year of 1881; shall be commenced on or before the first day of May, 1881, and shall be entirely completed and ready for occupancy on or before the first day of November, 1881.

§ 6. CONTRACT TO BE LET TO LOWEST BIDDER.] The erection and construction of said building or buildings shall be let by the board of county commissioners to the lowest bidder, after public advertisement for proposals for not less than three weeks in a weekly newspaper published in said county of Richland, and sufficient bonds shall be required by said board from the contractor, with not less than two responsible sureties, for the construction and completion of said building or buildings, in accordance with the plans and specifications adopted by the board of county commissioners: *Provided,*

*however*, That if in the judgment of the said board the lowest bid for such contract is too high they shall have the power to reject all bids and advertise anew, and this from time to time until a proper bid is secured.

§ 7. BONDS TO BE ISSUED.] For the purpose of providing funds to pay the cost of constructing and furnishing said building or buildings, the board of county commissioners are hereby authorized and empowered and it is hereby made their duty to prepare and issue the bonds of said county, running for a term or period of fifteen years, to be redeemable after the expiration of seven years from the date of issue thereof, bearing not exceeding eight per cent. per annum interest, payable semi-annually on the first days of June and December of each year, in denominations of \$500 each, for a sum sufficient to pay the cost of the erection and construction of said building or buildings and the furnishing thereof, not exceeding the sum of (\$15,000) fifteen thousand dollars.

§ 8. DESCRIPTION OF BONDS.] Said bonds shall bear date on the first day of July, 1881, shall be payable fifteen years after date, with a provision that said county may redeem said bonds after the expiration of seven years from the date thereof, and principal and interest payable at the treasurer's office of the said county of Richland, and shall from time to time be sold by the said board of county commissioners, at not less than par, in such sums as shall be sufficient to meet the obligations accruing under the provisions of the contract herein provided for, for the erection and construction of said building or buildings, and also to pay for the furnishing thereof and for the purchase of a site therefor.

§ 9. TERMS OF PAYMENT.] The board of county commissioners shall have the power to provide in the contract for the terms of payment and for the withholding from time to time such per centage from the value of the work as it progresses as shall insure a prompt and proper compliance by the contractor with the terms of said contract, and to provide such other matters and things as are usually necessary and requisite with reference to said contract: *Provided, however*, That the terms of payment from time to time shall be only so fast as the work progresses, with fifteen per cent. deduction there-

from to insure the fulfillment of said contract, and such payments shall be in cash, and the erection and construction of said building or buildings shall be at all times under the supervision and control of said board, or of any agent or agents said board may select for that purpose.

§ 10. TITLE TO GROUND.] The site to be secured shall be taken free and clear from all liens and encumbrances, and the title thereto shall be free and clear from all claims and demands, and shall be paid for out of the proceeds of the sale of said bonds, and the title thereto shall be taken in the name of the county of Richland.

§ 11. REDEMPTION OF BONDS.] In issuing said bonds herein provided for the terms thereof shall provide that after the expiration of seven years from the date thereof it shall be optional with the said county at any time before they shall become due, to redeem the same at par and accrued interest at the date of such redemption, and in such amounts as the board of county commissioners or other lawful fiscal agents of said county shall from time to time determine, and under such rules and regulations as to notice thereof as they may prescribe.

§ 12. BOND TAX.] The board of county commissioners shall for the year 1881 and each year thereafter, levy and collect a tax sufficient to pay the interest on said bonds promptly as it shall become due and payable, and for the payment thereof at or before their maturity, as in section 11 provided; and after the expiration of seven years they shall levy and collect a sinking fund tax for the payment of said bonds sufficient to redeem the same within the period of their maturity, and as fast as such sinking fund shall become available they shall redeem such bonds under the provisions of said section 11 aforesaid.

§ 13. BOND TAX TO BE USED FOR NO OTHER PURPOSE.] The moneys levied and collected for the payment of the interest or principal of said bonds shall not be used for any other purpose, but shall be held and appropriated solely for the payment of said principal and interest under the provisions of this act.

§ 14. VIOLATION OF THIS ACT—HOW PUNISHABLE.] Any willful

violation of any of the provisions of this act shall be deemed and held to be and punishable as a misdemeanor, and a misappropriation of any of the bonds or funds provided for under the provisions of this act, including such as are to be levied and collected by taxation, or their use for any other purpose except as herein specified, or of any portion thereof, shall be and it is hereby declared to be a felony and punishable by imprisonment in the penitentiary not exceeding five years or by fine not exceeding double the amount of such misappropriation or use, or by both such fine and imprisonment.

§ 15. RENTING TO UNITED STATES.] The board of county commissioners of said county shall have authority to rent said court house and jail to the United States for court and jail purposes, reserving its use for all needed county purposes, and the moneys therefrom received shall be appropriated to the payment of the interest on said bonds, and if more than sufficient therefor, to the payment of the principal thereof; and as such rent moneys shall become available, the taxes for such interest or principal shall be in like sum reduced.

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

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TERREITORY OF DAKOTA, }  
Yankton, February 10, 1881. }

This act being entitled "An act providing for the erection and construction of a court house and jail for the county of Richland," originated in the House of Representatives of this Territory; passed the House, January 25, 1881, and was transmitted to the Council and passed that body January 28, 1881; was presented to the Governor of this Territory on the 7th day of February, 1881, and returned without his approval February 10, 1881, and accompanied by his objections, which were entered at length upon the journal; the question being, "Shall the bill pass, notwithstanding the objections of the Governor?" the bill was passed, the necessary two-thirds of all members voting in the affirmative.

Attest:

FRANK J. MEAD,

*Chief Clerk of the House.*

J. A. HARDING,

*Speaker of the House.*

COUNCIL CHAMBER, }  
Yankton, February 15, 1881. }

I hereby certify that on the 11th day of February, 1881, the foregoing bill, together with the objections of the Governor, was received from the House by

the Council; and the Council thereupon on the 15th of February proceeded to reconsider said bill, and the question being put, "Shall the bill pass, the objections of the Governor to the contrary notwithstanding?" it was decided in the affirmative, two-thirds of the Council voting to pass the bill, and then it was approved by the Council.

Attest:

E. B. DAWSON,  
*Chief Clerk.*

GEO. H. WALSH,  
*President.*

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## CHAPTER 26.

### RICHLAND COUNTY—SUPPLEMENTAL.

AN ACT to amend "An Act, providing for the Location, Erection and Construction of a Court House and Jail in Richland County, Dakota Territory," being Supplemental to House File No. 19.

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

§ 1. SPECIAL ELECTION.] That nothing in the act entitled "An act providing for the location, erection and construction of a court house and jail in Richland county, Dakota Territory," passed at the session of the Legislative Assembly of 1881, shall be so construed as to authorize any action to be taken by the said board of county commissioners toward the location and erection of county buildings before the questions have been submitted to the legal voters of the county of Richland, at a general or special election called for that purpose, and decided in the affirmative by a majority of the legal voters of the same.

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

Approved, February 21, 1881.

## CHAPTER 27.

## SIOUX FALLS—FUNDING INDEBTEDNESS.

AN ACT to Authorize the President and Trustees of the Village of Sioux Falls to Fund its Outstanding Indebtedness, and to issue Bonds to Protect said Village against loss by Fire.

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

§ 1. OFFICERS AUTHORIZED TO ISSUE BONDS.] The president and trustees of the village of Sioux Falls are authorized to fund all their outstanding indebtedness as it existed on the 11th day of January, A. D. 1881, whether the same was bonded or not, and for that purpose may issue bonds of said village, due in ten years from their date, bearing interest at the rate of seven per cent. per annum, the interest payable annually in accordance with interest coupons which shall be attached to such bonds. Said bonds shall be in denominations of not less than fifty dollars nor more than five hundred dollars; shall state for what purpose issued, and shall be numbered and registered.

§ 2. BONDS FOR FIRE APPARATUS, ETC.] Whenever at any general or special election the legal voters of said village shall vote to issue bonds to provide means of protection against loss by fire, the president and trustees of said village shall issue bonds not exceeding in amount the sum of six thousand dollars, due in ten years from their date, bearing interest at the rate of seven per cent. per annum, the interest payable annually. Said bonds to be executed and registered as provided in section 1 of this act: *Provided*, That no greater amount of such bonds shall be issued than shall be actually required to provide and pay for such water works, fire engine or other means of protection against fire as the electors of said village shall by vote determine to provide.

§ 3. BOND TAX.] The village board in addition to the amount already authorized may levy a tax upon the assessable property in said village sufficient to pay the interest on all its bonded indebtedness, and after five years shall levy a tax of two mills upon each dollar of the assessed valuation

of said village, to be collected as other taxes are collected, for a sinking fund, to be used in payment of its bonded indebtedness and for no other purposes.

§ 4. REDEMPTION OF BONDS NOW OUTSTANDING.] For the purpose of carrying out the provisions of this act the village board shall have power to purchase any bonds now outstanding against said village, whenever the same can be purchased for their nominal value with accrued interest, and may negotiate bonds as herein provided, at not less than their par value to pay for the same.

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

Approved, February 17, 1881.

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## CHAPTER 28.

### STUTSMAN COUNTY—COURT HOUSE AND JAIL.

AN ACT providing for the Erection and Construction of a Court House and Jail for the County of Stutsman, and to provide a Board for the Construction of the same.

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

§ 1. ELECTION OF CONSTRUCTION BOARD.] There shall be elected by the electors of Stutsman county, at the annual election of 1881, a board of court house construction for said county, consisting of three members possessing the qualifications of electors. Each member of said board before entering upon the duties of his office shall take and subscribe the oath of office as prescribed by law, which oath shall be filed in the office of the county clerk of said county. Each member shall execute a bond in the penal sum of five thousand dollars, in the form provided in section 2 of chapter 5 of the Political Code, with two sureties, to be approved by the probate judge of said county.

§ 2. CANVASS OF VOTES.] The votes for such officers shall be canvassed and certificates of election shall be issued to the persons entitled thereto, as prescribed in chapter twenty-seven of the Political Code.

§ 3. DUTY OF CONSTRUCTION BOARD.] The said board of court house construction shall be authorized and empowered and it is hereby made their duty under the provisions of this act, to erect and construct a suitable building or buildings for a court house and jail for said Stutsman county, Dakota Territory.

§ 4. PLANS AND SPECIFICATIONS.] The said board of court house construction shall immediately after their election and qualification cause to be prepared plans and specifications for a suitable building or buildings for the purposes hereinbefore provided; said buildings to provide for a jail, suitable rooms for all the county officers that are required by law to be provided with offices, and for a court room, grand and petit jury rooms, and such other rooms as are usually provided for court and county purposes, to be included within one building or more, as in the judgment and discretion of said board shall be deemed to be the most economical and otherwise the most advisable.

§ 5. SELECTION OF SITE.] The said board of court house construction shall select the site for such jail and court house at the county seat, to-wit: Jamestown, at such place as shall by them be deemed to furnish the best facilities for the transaction of the county and court business, and purchase the same at the most reasonable rates attainable, taking into consideration the location thereof, its eligibility and its proximity to the business portion of said town of Jamestown.

§ 6. TOTAL COST.] The cost of the purchase of the site therefor, and for the construction of the court house and jail shall not exceed, all told, together with the complete furnishing thereof, ready for the transaction of court and county business, and for the safe and secure confinement of prisoners in said jail, the sum of thirty thousand dollars.

§ 7. COMMENCED AND COMPLETED.] Said building or buildings shall be constructed during the year of 1882, shall be commenced by or before the first day of June, 1882, and shall

be entirely completed and ready for occupancy by or before the first day of December, 1882.

§ 8. MANNER OF LETTING CONTRACT.] The erection and construction of said building or buildings shall be let by said board of court house construction to the lowest bidder, after advertisement for public proposals for not less than four weeks in the weekly newspapers published at said town of Jamestown, and not less than one week in the *Pioneer-Press* daily, in St. Paul, and sufficient bonds shall be required by the said board from the contractor, with not less than two responsible sureties for the construction and completion of said building or buildings in accordance with the plans and specifications adopted by the board of construction.

§ 9. MAY ISSUE BONDS.] For the purpose of providing funds to pay the costs of construction and furnishing of said building or buildings the board of county commissioners of said Stutsman county are hereby authorized and empowered and it is made their duty to prepare and issue the bonds of said county, running for a term or period of fifteen years, bearing not exceeding eight per cent. per annum, interest payable semi-annually on the first day of July and January of each year, in denominations of \$500 each for a sum sufficient to pay the cost of the erection and construction of said building or buildings and the furnishing thereof, not exceeding the sum of (\$30,000) thirty thousand dollars; and the said board of county commissioners shall issue said bonds and deliver the same to the said board of court house construction from time to time when called upon by said board of court house construction, and shall take their receipts therefor.

§ 10. DESCRIPTION OF BONDS.] Said bonds shall bear date on the first day of July, 1882, shall be payable fifteen years after date, and principal and interest payable at ..... in the city of New York, and shall from time to time be sold by the said board of court house construction, at not less than par, in such sums as shall be sufficient to meet the obligations accruing under the provisions of the contract herein provided for, for the erection and construction of said building or buildings, and also to pay for the furnishing thereof and for the purchase of a site therefor.

§ 11. TERMS OF PAYMENT.] The board of court house construction shall have the power to provide in the contract for the terms of payment, and for withholding from time to time such percentage from the value of the work as it progresses as shall insure a prompt and proper compliance by the contractor with the terms of said contract, and to provide such other matters and things as shall be usually necessary and requisite with reference to such contract: *Provided, however,* That the terms of payment from time to time shall be only so fast as the work progresses, with fifteen per cent. deduction therefrom to insure the fulfillment of said contract, and such payments shall be in cash, and the erection and construction of said building or buildings shall be at all times under the supervision and control of said board of court house construction.

§ 12. TITLE TO SITE.] The site to be secured shall be taken free and clear from all liens and incumbrances, and the title thereto shall be free and clear from all claims and demands, except as against the United States, and shall be paid for out of the proceeds of the sale of said bonds, and the title therefor shall be taken in the name of the county of Stutsman.

§ 13. DISPOSAL OF PRESENT GROUNDS, ETC.] The said board of county commissioners are hereby authorized to sell and dispose of the present court house and also all other grounds in and about said Jamestown and its vicinity, owned or claimed by said Stutsman county, for the best attainable terms, at public vendue or private sale, and through the chairman of said board of county commissioners, under the seal of said county, transfer the title thereto to said purchaser, and appropriate the proceeds thereof toward the purchase of the court house and jail site, to be erected under the provisions of this act, or the erection and construction of said building or buildings or the furnishing thereof.

§ 14. PLANS—WHAT TO INCLUDE.] The said board of court house construction shall in their plan for the construction of said building or buildings include suitable rooms for the residence of the jailor and family in addition to the erection and construction of and furnishing of the court house and county offices and county jail.

§ 15. REDEMPTION OF BONDS.] In issuing said bonds herein provided for the terms thereof shall provide that after the expiration of five years from the date thereof, it shall be optional with the said county at any time before they shall become due to redeem the same at par, and accrued interest at the date of the redemption, at such times and in such amounts as the board of county commissioners or other lawful fiscal agents of said county shall from time to time determine, and under such rules and regulations as to notice thereof as they may prescribe.

§ 16. LEVYING BOND TAX.] The said board of county commissioners shall for the year 1882 and each year thereafter, levy and collect a tax sufficient to pay the interest on said bonds promptly as it shall become due and payable, and for the payment thereof at or before their maturity as in section fifteen provided, and after the expiration of five years they shall levy and collect a sinking fund tax for the payment of said bonds sufficient to redeem the same within the period of their maturity, and as fast as such sinking fund shall become available, they shall redeem such bonds under the provisions of said section fifteen aforesaid.

§ 17. BOND TAX NOT TO BE USED FOR OTHER PURPOSES.] The moneys levied and collected for the payment of the interest or principal of said bonds shall not be used for any other purpose, but shall be held and appropriated solely for the payment of said principal and interest, under the provisions of this act.

§ 18. SPECIAL BOND ELECTION.] Nothing herein contained shall be construed to authorize the issuing of such bonds or the construction or erection of said court house and jail unless a majority of all the legal electors present and voting at the annual election of 1881 shall vote in favor therefor.

§ 19. COMMISSIONERS OF COUNTY TO SUBMIT BOND QUESTION TO VOTE.] It is the duty of the county commissioners of said county to submit to the electors of said county at the annual election of 1881, for the purpose of voting upon the same, the proposition of issuing such bonds and building said court house and jail, and it is made the duty of the county clerk of said county to give notice thereof as provided in section 5 of

chapter 27 of the Political Code, and of the election of said board of court house construction. The voting on such questions at such election shall be by printed or written ballots with words, "For building court house and jail and issuing bonds, yes;" or "For building court house and jail and issuing bonds, no." Such votes shall be canvassed in the same manner as provided by law for canvassing votes for county officers, and if a majority of all the votes cast be found to be for building said court house and jail and issuing bonds, such court house and jail shall be built, and bonds may issue as herein provided: *Provided, however,* That if at said election the majority of all the votes cast be against said proposition, it shall be the duty of the county commissioners of said county on the petition of one third of the number of electors who voted at the annual election of 1881, within not less than six months from said election, to re-submit the same question to the electors of said county; and they are hereby authorized and have all needful power to call a special election of the electors of said county of Stutsman for such purposes, and for electing said board of court house construction; but they shall first give notice of such election in the same manner as now required by law for a general election, and all voting and canvassing of the votes on said questions and for said board shall be the same as provided by law for canvassing votes for county officers, and as hereinbefore provided; and if a majority of all the votes cast at such election be found to be for building said court house and jail and issuing bonds, such court house and jail shall be built and bonds may be issued as herein provided.

§ 20. CONCERNING MEMBERS OF THE BOARD OF CONSTRUCTION.] The members of said board of court house construction shall receive no compensation for their services, and shall in no manner be interested in any contract for the erection and construction of said court house and jail. They shall hold their office until the completion of said court house and jail, the furnishing thereof, and until the same is ready for occupation and use, and the contract fully completed on the part of the contractor, and payment received therefor from said county and the contract fully terminated. If from any cause the office of any member of said board of court house construc-

tion shall become vacant, the remaining members of said board shall have authority to appoint some suitable person to fill such vacancy who shall give bonds as hereinbefore provided.

§ 21. POWERS OF BOARD.] It shall be the duty of said board of court house construction to have full charge and control of the construction and erection and furnishing of said court house and jail, to enter into all contracts in behalf of the county necessarily appertaining to the same, to audit all accounts and bills, and they shall take receipts for all moneys paid and expended by them, and shall file said contract or contracts with all receipts and a full statement, under oath, of all disbursements made, with the names of the parties, and for what expended, in the office of the county clerk of said county of Stutsman.

§ 22. VIOLATION OF ACT—HOW PUNISHABLE.] Any willful violation of any of the provisions of this act shall be deemed and held to be and punishable as a misdemeanor, and a misappropriation of any of the bonds or funds provided for under the provisions of this act, including such as are to be levied and collected by taxation, or their use for any other purpose except as herein specified, or of any portion thereof shall be and it is hereby declared to be a felony and punishable by imprisonment in the penitentiary not exceeding five years, or by fine not exceeding double the amount of such misappropriation or use, or by both such fine and imprisonment.

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

Approved, March 5, 1881.

## CHAPTER 29.

## YANKTON COUNTY RAILROAD BONDS.

AN ACT to Fund the Bonds and Coupons issued by the County of Yankton under and by virtue of an act of the Legislative Assembly of the Territory of Dakota, entitled "An Act to enable Organized Counties and Townships to vote Aid to any Railroad and to Provide for the Payment of the same," and an act of Congress, entitled "An Act in relation to the Dakota Southern Railroad Company," and for other Purposes.

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

§ 1. AUTHORITY TO REFUND.] The bonds and coupons issued by the county of Yankton under and by virtue of an act of the Legislative Assembly of the Territory of Dakota, entitled "An act to enable organized counties and townships to vote aid to any railroad and to provide for the payment of the same," approved by the governor on the 21st day of April, 1871, and an act of congress, entitled "An act in relation to the Dakota Southern Railroad company," approved May 27, 1872, and any judgment rendered or hereafter obtained against said county upon said bonds or coupons may be funded, retired, cancelled and discharged as hereinafter provided.

§ 2. WHEN COMMISSIONERS MAY ISSUE NEW BONDS.] But whenever any of the outstanding bonds, coupons or judgments rendered thereon named in section 1 of this act can be discharged, retired, purchased or obtained at a discount of fifty per centum on the dollar, the county commissioners shall have the authority to provide for the issue of new bonds of the county with interest coupons thereto attached, which bonds shall be printed or lithographed as the board shall determine, and shall be signed by the chairman of the board and attested by the clerk under the seal of the county.

§ 3. DESCRIPTION OF BONDS.] Said bonds shall be of uniform date, shall be payable in not less than fifteen nor more than thirty years from date and shall bear interest at a rate not exceeding six per centum per annum, payable semi-annually, and both bonds and coupons shall be payable at the office of the county treasurer or in the city of New York, as the board may determine.

§ 4. COUNTY TREASURER AUTHORIZED TO EXCHANGE.] That the county treasurer is hereby authorized and empowered to exchange the new bonds authorized by this act for the bonds and coupons named in section 1 of this act, at the rate of not to exceed one dollar of the new bonds for two dollars of said old bonds and coupons named in said section 1, and to use such new bonds in settlement of any judgment mentioned in said section 1 at the same rate: *Provided, however,* Said county treasurer shall have authority to sell and negotiate said new bonds provided for by this act, at not less than their par value, and with the proceeds of such sale may purchase any of the bonds and coupons or settle and discharge any judgment named in section 1 of this act at the rate provided for in this section; but the moneys so received from the sale of said new bonds is hereby created a special fund and appropriated to the uses provided for in this section. And it shall be unlawful to use said fund so appropriated for any other purpose whatever, or for payment of said indebtedness at any greater or higher rate than herein provided for.

§ 5. BOND REGISTER.] It shall be the duty of the county commissioners to provide a book to be known as the "Bond Register," in which the county treasurer shall enter the number, date and amount of all new bonds issued, when issued, to whom issued, how issued, whether for cash in exchange for old bonds or coupons, or in settlement of judgments. Also the number, date and amount of all bonds or coupons received and retired, date and amount of any judgments settled, when and how retired and amount paid. and such other remarks and memoranda as may be provided for by order of the board of county commissioners, which register when completed shall be deposited with the register of deeds, and shall be and remain a part of the records of the county.

§ 6. SALE OF RAILROAD STOCK.] The board of county commissioners are further authorized and empowered to assign, sell and convey any or all of the stock of the Dakota Southern Railroad company, issued to said county under the act of the Legislature of Dakota and the act of congress referred to in section 1 of this act, upon the best terms and for the highest price that can be obtained therefor, and with the proceeds of such sale to purchase and retire any of the outstanding

bonds and coupons of the county: *Provided, however,* None of the bonds or coupons of said county described in section 1 of this act shall be purchased or retired under the provisions of this section at a higher rate than provided for in section 4 of this act: *And provided further,* That instead of selling said stock for cash, said board of county commissioners may exchange or dispose of any part or all of same in settlement of the outstanding indebtedness of said county, in such manner and upon such terms as they shall deem for the best interests of the county; and any moneys that may be obtained from the sale of said stock is hereby made a special fund and appropriated to the payment of the outstanding indebtedness of said county to the extent of such fund, and at the rate and in the manner herein prescribed.

§ 7. BOND TAX.] The county commissioners shall levy annually a tax sufficient to pay the interest on the bonds issued under this act, and after ten years from the issue of such bonds they shall levy in addition thereto an annual sinking fund tax sufficient to pay the principal of such bonds by the time they shall become due and payable; and with such sinking fund tax, as fast as the same is collected, they shall go into the market and buy up said bonds at their market value and retire and cancel the same, which taxes shall be collected at the same time and in the same manner as other county taxes. And in case of failure on the part of the county commissioners from any cause to levy the taxes provided for in this section forty days prior to turning over of the tax lists to the county treasurer in any year, then it shall be the duty of the county clerk to make the levy provided for in this section, and place the same in the hands of the county treasurer for collection. And all moneys collected under the provisions of this section are hereby made a special fund and appropriated to the uses provided for in this section, and it shall be unlawful to use the same for any other purpose whatsoever,

§ 8. TREASURER'S FEE.] That the county treasurer shall receive for his services under the provisions of this act not to exceed one fourth of one per cent. on all moneys received by him, which sum shall be fixed by the commissioners.

§ 9. SPECIAL ELECTION—HOW TO BE HELD.] If the county commissioners should at any time determine that they could not

amicably fund, settle, commute, discharge and pay off said bonds, coupons and judgments mentioned in section one of this act, at the rate provided for in this act, then in that event they are hereby authorized and empowered to fund, settle, commute, discharge and pay off the same for a greater rate on a dollar than is provided in this act: *Provided, however,* They shall first submit the same to a vote of the people of said county at a special election called for that purpose, by giving at least sixty days' notice of the same, by publication in the newspapers of the county and by posting such notices in each election precinct in the county. And the said board of county commissioners shall fix in their resolution calling such election, and state in the notices the rate or amount of such compromise or settlement, and the votes cast shall be for or against the amount stated in such resolution and notices, and shall be substantially in the following form: For compromise of railroad bonds, coupons and judgment at a rate not exceeding ..... on a dollar, (stating the rate of compromise) or (against compromise of railroad bonds, coupons and judgments at a rate not exceeding ..... on a dollar); and if a majority of the votes cast at such election be for such compromise, then the said board shall have full power and authority and are hereby authorized and empowered to settle, commute, discharge and pay off such bonds, coupons or judgments mentioned in section 1 of this act at a rate not exceeding the amount authorized by said vote.

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

ENDORSED.—Received at Executive Office, February 21, at 4:00 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 30.

## VILLAGE OF DELL RAPIDS.

AN ACT to Legalize the acts of the President and Trustees of the Village of Dell Rapids, to increase their Powers and to Authorize the issue of Village Bonds for Railroad purposes, and to provide means of Protection against loss by Fire.

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

§ 1. LEGALIZING ISSUE OF RAILROAD BONDS.] That all the ordinances, by-laws and orders adopted by the president and trustees of the village of Dell Rapids, be and are hereby declared legal, and that village bonds to the amount of twelve thousand five hundred dollars, due in twenty years from their date, and bearing interest after three years at the rate of seven per cent. per annum, issued and payable to the order of the Southern Minnesota Railway Extension company in accordance with a vote of the qualified electors of said village, be recognized and approved as having the same binding force and effect as if they had been duly authorized by the Legislative Assembly of the Territory of Dakota prior to the date of their issue.

§ 2. RIGHT OF WAY BONDS AUTHORIZED.] The president and trustees of said village are authorized to issue bonds of said village, due in ten years from their date, bearing interest at the rate of seven per cent. per annum, to the amount of two thousand five hundred dollars, or so much thereof as may be required to defray the expenses incurred by said village in procuring the right of way for the Southern Minnesota railroad to its present terminus.

§ 3. FIRE APPARATUS BONDS WHEN AUTHORIZED BY VOTE.] Whenever the duly qualified electors of said village shall by majority vote determine to do so said village shall have power to issue bonds, not exceeding in amount the sum of five thousand dollars, bearing interest at the rate of seven per cent. per annum, due in ten years from their date, to provide suitable fire engines, construct water works, tanks, wells or cisterns, or to make such other provisions for the protection of

said village against loss by fire as may be determined by the village board: *Provided*, Said bonds shall be disposed of at par and no greater part of the amount hereby authorized than is actually required for said purpose shall be issued.

§ 4. BOND TAX.] In addition to the amount that may already be assessed upon the taxable property in said village, the president and trustees of said village shall annually levy a tax of not more than five mills upon each dollar of the assessed valuation of all the property within the corporate limits for the purpose of paying the interest upon the bonded indebtedness of said village, and shall also after five years from the date of issuing said bonds ley a tax of two mills upon said valuation, to be retained in the village treasury or invested in accordance with the directions of the president and trustees of said village as a sinking fund to be used in payment of the bonds issued by said village when the same shall become due, and for no other purpose.

§ 5. ADDITIONAL POWERS OF VILLAGE BOARD.] In addition to the powers already vested in the village board they shall have power to prohibit the use without license of all public vehicles, drays and other carriages used for transporting passengers or freight within the limits of said corporation, and to fix the amount of license to be paid into the village treasury by the party or parties owning and operating the same.

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

ENDORSED.—Received at Executive Office, February 7, 1881, at 2:00 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 House 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.*

## Change of Name.

### CHAPTER 31.

#### STICKNEY—OJATA.

AN ACT to Change the Name of the Town of Stickney to that of Ojata in Grand Forks County, Dakota Territory.

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

§ 1. OJATA.] That the town of Stickney as laid out by John J. Cavanaugh, and situated upon the Grand Forks extension of the St. P. M. & M. R. R., in Grand Forks county, Territory of Dakota, be and the same is hereby changed to Ojata, and that the plat of said town of Stickney as recorded and upon file in the office of the register of deeds, within and for said county of Grand Forks, is authorized to be changed by the register of deeds for said county to conform to said name of Ojata.

§ 2. This act shall not affect any transfer of town lots in said town of Stickney prior to the passage and approval of this act.

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

ENDORSED.—Received at Executive Office, February 26, at 6:00 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.*

## County Commissioners.

### CHAPTER 32.

#### GRAND FORKS COUNTY—COMMISSIONER DISTRICTS.

AN ACT to Divide the County of Grand Forks, Dakota Territory, into Five Commissioner Districts.

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

§ 1. BOUNDARIES OF DISTRICTS DEFINED.] That the county of Grand Forks, within the Territory of Dakota, be and the same is hereby divided into five commissioner districts, as follows, viz:

District No. one to comprise townships one hundred and forty-nine (149), one hundred fifty (150), N. of ranges No. forty nine (49), fifty (50) and fifty-one (51) and fifty-two (52) W.

District No. two to be composed of townships No. one hundred fifty-one (151) and one hundred fifty-two (152), N. of range No. fifty (50) and fifty-one (51) W.

District No. three to be composed of townships No. one hundred fifty-two (152) N. of ranges No. fifty-two (52) W., townships one hundred fifty-three (153), one hundred fifty-four (154), one hundred fifty-five (155) and one hundred fifty-six N. of ranges No. fifty (50), fifty-one (51) and fifty-two (52) W.

District No. four to be composed of townships No. one hundred fifty-one (151) N. of range fifty-two (52) W. and townships one hundred forty-nine (149), one hundred fifty (150), one hundred fifty-one (151) and one hundred fifty-two (152) N. of ranges No. fifty-three (53), fifty four (54), fifty-five (55) and west to the county line.

District No. five to be composed of townships one hundred fifty-three (153), one hundred fifty-four (154), one hundred fifty-five (155) and one hundred fifty-six (156) N. of ranges No. fifty-three (53), fifty-four (54), fifty-five (55) and west to county line.

§ 2. NAMES OF COMMISSIONERS.] That Tellif Gundersen, Jacob Eshelman and Mathew Maginnis are hereby continued as the commissioners from the first, second and third districts respectively, and shall hold their office during and for the full term to which they have been already elected by the people of said county of Grand Forks; that W. G. Williams is hereby appointed commissioner from the fourth commissioner district and Robert Warren from the fifth commissioner district, each of whom shall hold his office until the annual election in 1881, or until their successors are elected and qualified; that after the expiration of the term of office of the commissioners so elected or appointed by this act, the commissioners to be hereafter elected shall be elected for the term of three years, and each of whom shall be a resident of the district which he is to represent, and to be voted for only by the electors of said district, whose duties and powers shall be the same as now prescribed by law. *Provided, however:* That if any vacancy shall occur in said board, by death, resignation or otherwise, such vacancy shall be filled as now provided by law.

§ 3. That all acts or parts of acts inconsistent with this act are hereby repealed so far as the county of Grand Forks is concerned.

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

COUNCIL CHAMBER,  
Yankton, D. T., Feb. 28th, 1881. }

I hereby certify that on the 28th day of February, 1881, this act was returned to the council, the house in which it originated, without the approval of his excellency, Governor N. G. Ordway, with his objections to this bill in writing. His objections were entered at large on the journal of the council, and 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:

E. B. DAWSON,

*Chief Clerk of the Council.*

Approved:

GEO. H. WALSH,

*President of the Council.*

HOUSE OF REPRESENTATIVES, }  
Yankton, Dakota, March 1, 1881. }

I hereby certify that the within bill was received in the House on the 28th day of February and postponed for action until Tuesday, the 1st day of March.

That it was taken up and considered and the question put by the Speaker, "Shall the bill pass, notwithstanding the objections of the governor," and the bill did pass, more than two-thirds of the House voting in the affirmative.

Attest:

FRANK J. MEAD,  
*Chief Clerk of the House.*

J. A. HARDING,  
*Speaker of the House*

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## CHAPTER 33.

### LAKE COUNTY—REMOVING RECORDS LEGALIZED.

AN ACT Legalizing the acts of the County Commissioners of Lake County, Dakota Territory, in moving the County Records, Safe, etc., of said Lake County from the former town of Madison, the County Seat of Lake County, to New Madison; also permanently fixing and locating the County Seat of said Lake County.

WHEREAS; The removal of the people and buildings composing the former town of Madison, the county seat of Lake county, Dakota Territory, from the site of said former town of Madison to the town of New Madison, since incorporated under the name of Madison, necessitated the removal of the county records, safe, etc., of said Lake county, from said county seat; and

WHEREAS; The county commissioners of said Lake county, in conformity with the said existing necessity did remove the county records, safe, etc., of said Lake county from the said former town of Madison to the platted town of New Madison, said New Madison has since been incorporated under the name of Madison, the former town of Madison, the county seat of Lake county having been vacated; Therefore:

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

§ 1. CERTAIN ACTS LEGALIZED.] That the acts of the county commissioners of said Lake county in the removal of the county records, safe, etc., of Lake county from the former town of Madison, the county seat of said Lake county to the platted town of New Madison, be, and the same is hereby legalized, and all business transacted by said county commis-

sioners and other county officers of said Lake county at said New Madison is hereby made legal and binding, as if transacted at the former town of Madison, the county seat of said Lake county.

§ 2. COUNTY SEAT LOCATED.] That all that tract or section of land embraced within the incorporated limits of the town of Madison, Lake county, Territory of Dakota, be and the same is hereby declared to be the county seat of said Lake county.

§ 3. TWO-THIRDS VOTE MAY REMOVE.] Nothing in this act shall be so construed as to prohibit at any time in the future a removal of said county seat from the town of Madison, by two-thirds vote of the electors of said Lake county as prescribed in the general law.

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

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

Approved, February 28, 1881.

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## CHAPTER 34.

### LAWRENCE COUNTY—RE-ASSESSMENT.

AN ACT to Legalize certain acts of the County Commissioners of Lawrence County.

WHEREAS, The assessment roll of Lawrence county was duly and properly prepared for the year 1879, and the taxes equalized as required by law, and

WHEREAS, The same with all other records of said Lawrence county were totally destroyed by fire on the 26th of September, 1879, and

WHEREAS, The board of county commissioners of said county immediately thereafter, but after the time prescribed by law, ordered a re-assessment of said Lawrence county, and

WHEREAS, The assessor of said county duly re-assessed the property of said county in accordance with the said order of the commissioners; therefore

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

§ 1. LEGALIZING RE-ASSESSMENT.] All acts of the county commissioners of Lawrence county, ordering a re-assessment of the property of said county for the year 1879, for the purpose of taxation, and the assessment made in pursuance of such order, are hereby declared legal.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, February 14, 1881.

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## CHAPTER 35.

### LAWRENCE COUNTY—SESSIONS OF BOARD.

AN ACT to amend Section 24 of Chapter 39 of the Political Code.

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

§ 1. TIME ALLOWED FOR SESSIONS OF BOARD AND PAY OF MEMBERS.] That section 24 of chapter 39 of the Political Code, be and the same is amended by adding to said section 24 of said chapter 39 of the Political Code, the following words. “§ 24. That the county commissioners of Lawrence county, Territory of Dakota, at their annual meeting in January may occupy not to exceed twelve (12) days, and at the quarterly meeting in March not to exceed six days; and at the quarterly meeting in July, when the board sits as a board of equalization, not to exceed sixteen (16) days, and at the quarterly meeting in September not to exceed 3 days, and at special sessions not to exceed three (3) days, and in all not to exceed (64) sixty-four days in each year. And it is further provided that the county commissioners of said Lawrence county shall receive

as a compensation therefor the sum of eight dollars per diem and five cents per mile for the distance actually and necessarily traveled in going to and from the county seat, and shall receive their pay in the same manner and form as heretofore provided by law; and said commissioners shall before entering upon their duties, give a good and sufficient bond, with not less than two sureties, to be approved by the clerk of the district court, in the sum of not less than three thousand dollars."

§ 2. That the provisions of this act shall be construed to apply only to the said Lawrence county.

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

ENDORSED.—Received at Executive Office, February 28, at 5:30 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 House 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.*

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**CHAPTER 36.**

**LINCOLN COUNTY—SETTLEMENT WITH EX-TREASURER.**

AN ACT to Authorize the Board of County Commissioners of Lincoln County to settle with and accept from George W. Naylor, ex-County Treasurer of said County, such sums of money as they may deem advisable, the same to be not less than seven thousand dollars.

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

§ 1. **AUTHORITY TO SETTLE WITH EX-COUNTY TREASURER.]** The board of county commissioners of the county of Lincoln shall have power and are hereby authorized to settle with George W. Naylor, ex-county treasurer of said county, and

accept from said George W. Naylor in said settlement such sum or amount of money, not less than seven thousand dollars, as may in their judgment be deemed advisable for the best interests of said county.

§ 2. CONDITIONS OF SETTLEMENT.] When the said George W. Naylor shall have paid to the said county commissioners upon such settlement such sums of money, not less than seven thousand dollars, as the said commissioners decide to accept, then and in that case the sureties upon the bond of said George W. Naylor shall be released from any further liability or obligation upon said bond.

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

Approved, January 29, 1881.

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## CHAPTER 37.

### STUTSMAN COUNTY—PAY OF COMMISSIONERS.

AN ACT regulating the Compensation of the County Commissioners of Stutsman County.

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

§ 1. COMPENSATION ALLOWED COMMISSIONERS.] The county commissioners of Stutsman county, Dakota Territory, shall each be allowed for the time they shall be necessarily employed in the duties of their office, the sum of three dollars per day and five cents per mile for the distance actually traveled in attending the meetings of the board, and when engaged in other official duties, to be paid out of the general county fund: *Provided*, That the aggregate amount of the allowance shall not exceed ninety dollars each in any one year: *And provided further*, That each of said commissioners shall be an actual *bona fide* resident of the commissioner district represented by him.

§ 2. All acts or parts of acts conflicting with this act are hereby repealed.

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

ENDORSED.—Received at Executive Office, Feb. 24, at 7:40 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 House 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.*

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## CHAPTER 38.

### UNION COUNTY—ELECTION OF COMMISSIONERS.

AN ACT to Provide for the Election of County Commissioners in the County of Union and limit their term of office.

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

§ 1. MANNER OF ELECTING COMMISSIONERS.] That hereafter the county commissioners of Union county shall hold their office for the term of three years—one of whom shall be elected annually in the manner herein provided. At the annual election in A. D. 1881, the qualified electors of the first commissioner district as now defined in said county shall elect one commissioner who shall hold his office for three years, and in like manner one commissioner shall be elected in the second commissioner district for the term of two years, and in the third commissioner district one commissioner for the term of one year, and thereafter each respective district shall elect one commissioner for the full term of three years in regular order as their terms of office shall severally expire.

§ 2. REPEALED.] That section 4 of chapter 9 of the special and private laws, approved January 9, 1873, are hereby repealed.

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

ENDORSED.—Received at Executive Office, February 16, at 5:30 P. M.

**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 House 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.*

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## County Seat.

### CHAPTER 39.

#### RICHLAND COUNTY—BOUNDARIES OF COUNTY SEAT.

AN ACT defining the Boundaries of the County Seat of Richland County.

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

§ 1. BOUNDARIES DEFINED.] That all that part of section No. (8) eight, in township number one hundred and thirty-two (132), north of range number forty-seven (47) west, lying and being in the county of Richland and Territory of Dakota, is hereby declared to be the county seat of said Richland county.

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

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

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TERRITORY OF DAKOTA, }  
Yankton, February 21, 1881. }

This act being an act entitled "An act to define the boundaries of the county seat of Richland county," originated in the House of Representatives of this Territory; passed the House, February 11, 1881, and was transmitted to the Council and passed that body February —, 1881; was presented to the Gov-

ernor of this Territory on February 16, 1881, and returned without his approval February 19, 1881, and accompanied by his objections, which were entered at length on the journal; and the communication accompanying it was considered by the House, February 19, 1881, the question being, "Shall the bill pass, notwithstanding the objections of the Governor?" and the bill was passed, the necessary two-thirds of all members voting in the affirmative, and to these facts of the action of the House I hereby certify of my own knowledge.

FRANK J. MEAD,

*Chief Clerk of the House.*

J. A. HARDING,

*Speaker of the House.*

COUNCIL CHAMBER,  
Yankton, February 21, 1881. }

I hereby certify that on this 21st day of February, 1881, the foregoing bill, together with the objections of the Governor, was received from the House by the Council; and the Council thereupon proceeded to reconsider said bill, and the question being put, "Shall the bill pass, the objections of the Governor to the contrary notwithstanding?" it was decided in the affirmative, two-thirds of the Council voting to pass the bill, and then it was approved by the Council.

Attest:

E. B. DAWSON,

*Chief Clerk.*

GEO. H. WALSH,

*President.*

## Delinquent Taxes.

### CHAPTER 40.

#### UNION COUNTY.

AN ACT Extending the Time in which Taxes shall become Delinquent in the County of Union, in the year 1881.

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

§ 1. TIME FOR COLLECTING CERTAIN TAXES POSTPONED.] That in consideration of the epidemic now prevailing in parts of Union county, and the effect of this in the quarantine of large areas of said county, and the prevention of the attendance at the county seat of the citizens thereof, the time at which taxes of all kinds in said county for the year 1880 shall become delinquent be and is hereby extended two months from and after the first day of February, 1881, at the end of which period the same proceedings shall be had as would regularly be taken under the present law.

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

Approved, February 3, 1881.

## Education.

### CHAPTER 41.

#### BISMARCK AND OTHER CITIES.

AN ACT Providing a Board of Education for the City of Bismarck and for other Purposes.

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

§ 1. WHEN MAY ESTABLISH BOARD OF EDUCATION.] That any city, town or village that now is or may hereafter be incorporated whenever it has resident within its corporate limits children of lawful school age to the number of not less than one hundred and seventy-five, to be ascertained by a census thereof, taken by direction of the council or board of trustees and verified by the oath of the enumerator, may by resolution of its council or board of trustees, provide and establish a board of education for such city, town or village, with all the powers, duties and obligations prescribed by this act.

§ 2. ELECTION OF BOARD.] Such board of education shall consist of two members from each ward of such city, town or village, who shall together constitute the board of education therefor. The members of such board shall be elected by the mayor and council, or president and board of trustees of such city, town or village, at a meeting thereof specially called for the purpose at which the mayor or president shall preside. The election shall be *viva voce* upon a call of the roll, and the members of the council and the mayor and the trustees and president shall be each entitled to one vote equally, and a majority of all such persons and officers so entitled to vote in each city, town or village shall be required to elect each member of such board of education. The members thereof shall be so elected singly and a full record of the proceedings and of the several roll calls and ballots, and of the result in each case, shall be made by the proper clerk in the regular record book of proceedings. One-half of the members of each board of education, except as hereinafter specially provided, shall be chosen to serve until one year after the first

Tuesday of May following such election, and one-half for two years after such date, and one of those from each ward shall be elected for the shorter term and one for the longer term, as aforesaid; and thereafter the terms of office for the members of such boards shall be two years, and one member thereof for each ward shall be elected by the mayor and council, or the president and board of trustees, as hereinbefore provided, at a meeting to be held on the first Tuesday in May in each year after the first. The body electing the first members shall prescribe the time for their qualification and for their first meeting and organization.

§ 3. CITY OF BISMARCK.] This act shall take effect and be in force in the city of Bismarck from and after its passage and approval, without any act of its mayor and council or other officers, and without respect to any enumeration or the number of children of school age therein, and a board of education is hereby established therefor. The board of education for said city of Bismarck shall consist of six persons, two from each ward of said city; and the following persons, to-wit: George P. Flannery and George W. Sweet for the first ward; James A. Emmons and John A. Stoyell for the second ward; and John P. Dunn and Alexander McKinsie for the third ward thereof, are hereby appointed members of said board of education for the said city of Bismarck, and they shall on or before the third Monday in March, 1881, qualify by oath of office, and the said George W. Sweet for the first ward, James A. Emmons of the second ward and Alexander McKinsie for the third ward, shall hold their offices until the first Tuesday in May, 1882, and the said George P. Flannery for the first ward, John A. Stoyell for the second ward and John P. Dunn for the third ward, shall hold their offices until the first Tuesday in May, 1883, and all until their successors are duly elected and qualified; and members of said board shall at and after the dates hereinbefore named, be elected, as in section two of this act provided.

§ 4. FRACTIONAL DISTRICTS CAUSED BY THE ESTABLISHMENT OF BOARD.] When by the establishment of any board of education for any city, town or village, parts of any school district or districts shall be cut off and left without the corporate limits, and the jurisdiction of such board, the children of

lawful school age residing within such parts so cut off shall be entitled to attend as pupils the schools of such city, town or village, by the payment of a reasonable tuition, which shall be fixed by the board and which must be paid for each term in advance. All pupils who so attend such schools for not less than sixty days in each year shall be included within the school census of such city, town or village and so treated in the apportionment of the county general school fund by the county superintendent of public schools, and in consideration of this, the board of education shall fix a lower rate for the tuition of such pupils than for those admitted from territory not so previously included. This provision shall apply to all boards that have been heretofore or now are or shall be established under this or other acts, but it shall not prevent the organization of such adjacent and cut off territory into school districts or otherwise, as provided by this or the general school law. The secretary of such board of education shall annually, at the time provided by law for taking the school census, certify in writing to the officer under such board and the officer of each proper school corporation from which they come, the names and number of the pupils so attending, and they shall be excluded from the census of the district from which they so came and included in the census of such city, town or village.

§ 5. OATH OF MEMBER OF BOARD.] Each member of every such board shall take and subscribe an oath that he will support the constitution of the United States and the laws thereof governing the Territory of Dakota, and that he will honestly and faithfully discharge all the duties of his office as a member of such board of education, which oath shall be filed in the office of the clerk of the city, town or village.

§ 6. FILLING VACANCIES.] The mayor and council or president and board of trustees of any such city, town or village may at any time elect members of such boards in the manner in section two provided, to fill any vacancies which may occur from any cause other than the expiration of the term of office of those elected, and the persons so elected shall serve out the unexpired term.

§ 7. REMOVAL.] Any member of a board of education may be removed from office for official misconduct by the mayor

and council or president and board of trustees of the city, town or village for which he serves, by a vote of two-thirds of all the members thereof; but a written copy of the charges preferred against such member shall be served upon him and he shall be allowed an opportunity for refuting such charges of misconduct before removal.

§ 8. BOARD A BODY CORPORATE.] Every board of education for a city, town or village heretofore established and herein established and provided for, shall be a body corporate in relation to and in execution of all the powers and duties conferred upon it by this act, or which may hereafter be conferred upon it for school purposes by the name and style of "The Board of Education of the City (town or village) of . . . . . " (here insert the corporate name and style of the city, town or village respectively wherein and for which each board is or shall be established) and by such name shall be capable and have power to contract and be contracted with, to sue and be sued, and shall possess all the powers usual and incident to bodies corporate, and all such as shall be herein given, and shall procure and keep a common seal. A majority of every such board shall constitute a quorum. At the annual meeting of each board, held on the third Tuesday of May in each year, they shall elect one of their number president of the board, and whenever he shall be absent a president *pro tempore* shall be appointed.

§ 9. COMPENSATION.] The members of the board shall receive no compensation and shall not be interested directly or indirectly in any contract for building or for making any improvement or repairs provided for by this act. They shall have the care and custody of all the public property in their city, town or village pertaining to school purposes and the general management and control of all school matters therein.

§ 10. MEETINGS.] The annual meeting of each board shall be held on the third Tuesday of May in each year. Each board shall also meet for the transaction of business as often as once in each calendar month and may adjourn for any shorter term. Special meetings may be called by the president, or in case of his absence or inability to act, by any member of the board, as often as necessary by giving a per-

sonal notice to each member of the board, or by causing a written or printed notice to be left at his last place of residence at least forty-eight hours before the hour for such special meeting.

§ 11. SECRETARY—DUTIES OF.] Each board shall appoint a secretary, who shall hold his office during the pleasure of the board, and whose compensation shall be fixed by the board. Said secretary shall keep a record of the proceedings of the board and perform such other duties as the board may prescribe. The said record or a transcript thereof, certified by the secretary and attested by the seal of the board shall be received in all courts as *prima facie* evidence of the facts therein set forth, and such records and all the books, accounts, vouchers and papers of every such board shall be at all times subject to the inspection of the city council or the board of trustees, or other governing body of the city, town or village, for which the board is established, or any committee of such council or board, or any taxpayer of such city, town or village. For the purpose of economy, the board of the city of Bismarck may appoint one of their own members secretary, in which event said secretary shall serve without compensation.

§ 12. TAXES—FOR WHAT PURPOSE.] Every board of education of a city, town or village shall have power and it shall be their duty to levy and raise from time to time by tax such sums as may be determined by the board to be necessary and proper for any or all the following purposes:

1. To purchase, exchange, lease or improve sites for school houses.
2. To build, purchase, lease, enlarge, alter, improve and repair school houses and their outhouses and appurtenances.
3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, and to purchase and sell or rent the necessary text or class books, and sell the necessary stationery for the pupils in the schools under its management and control; but the powers herein granted shall not be deemed to authorize the furnishing with class or text books any pupil whose parent or guardian shall be able to furnish the same.

4. To procure fuel and defray the contingent expenses of the board, including the compensation of the secretary.

5. To pay teachers' wages after the application of public moneys which may by law be appropriated and provided for that purpose.

§ 13. COLLECTION OF TAXES.] The tax so to be levied as aforesaid and collected by virtue of this act shall be collected in the same manner as other city, town or village taxes, and for that purpose every said board of education shall have power to levy and cause to be collected such taxes as are herein authorized, and shall cause the rate for each purpose to be certified by the secretary to the clerk of the city, town or village in time to be added to and put upon the annual tax list of such city, town or village. And it shall be the duty of every such clerk to calculate and extend upon the annual assessment roll and tax list of the city, town or village such tax so levied by said board, and such taxes shall be collected as other city, town or village taxes are collected. And in case the city council or board or trustees of any such city, town or village shall fail to levy any tax for city, town or village purposes, or shall fail to cause an assessment roll or tax list to be made such as now is or may hereafter be provided by ordinance, by-law or statute, the said board may cause an assessment roll and tax list to be made out by its secretary and put into the hands of the city, town or village treasurer with a warrant for the collection of the same, under the hand of the president and seal of the board and attested by the secretary, and may cause the same to be collected in the same manner as other city, town or village taxes are collected or as may by a resolution of such board be provided.

§ 14. VARIOUS FUNDS—THEIR USES.] The amount raised for teachers' wages and contingent expenses shall be only such as together with the public money coming to such city, town or village from the territorial and county fund and other sources shall be sufficient to maintain efficient and proper schools for the children in such city, town or village; nor shall the tax for the purchasing, leasing or improving sites, and the building, purchasing, leasing, enlarging, altering or repairing of school houses exceed in any one year two cents on the dollar of valuation of the taxable property of such

city, town or village, and each of said boards of education is authorized and directed, when necessary, to borrow in anticipation the amount of the taxes so to be raised and collected as aforesaid.

§ 15. MAY ISSUE BONDS WHEN TAX IS INSUFFICIENT.] The board of education of each of said cities, towns and villages are authorized and empowered and it shall be their duty whenever the said board shall deem it necessary, in order to an efficient organization and establishment of schools in such city, town or village, and when the taxes authorized by this act shall not be sufficient or shall be deemed by the board burdensome upon the taxpayers of such city, town or village, from time to time to issue the bonds of such city, town or village in denominations of not less than one hundred dollars, payable not more than ten years after date and bearing interest at a rate of not more than eight per centum per annum, payable semi-annually on the first days of January and July, and showing upon their face that they are issued for school purposes, and cause the same to be negotiated and sold at not less than par, and the money realized therefrom deposited with the treasurer of such city, town or village to the credit of the board of education thereof. And when any bonds shall be so negotiated and sold it shall be the duty of the said board of education of such city, town or village to provide by tax for the regular and prompt payment of the interest and principal of said bonds: *Provided, however,* That at no time shall the aggregate amount of such bonds, issued under the provisions of this act, and any preceding special and general acts for school purposes, exceed twelve thousand dollars for the city of Bismarck, nor exceed five thousand dollars each for any other city, town or village that now is or may hereafter be incorporated, unless special authority of law be given for an additional amount.

§ 16. PAYMENT OF COUNTY SCHOOL FUNDS.] All moneys to be raised pursuant to the provisions of this act, and all school moneys which shall by law be appropriated or apportioned to or provided for every such city, town or village shall be paid over to the treasurer thereof; and the county treasurer of the county in which such city, town or village is situated shall from time to time as he shall receive the county school

funds, and at least once every six months, pay over to said city, town or village treasurer the proportion thereof belonging to such city, town or village the same as though such city, town or village constituted one school district in said county; and for that purpose every board shall have power to cause all needful steps to be taken, including census reports, or other acts or things, to enable such board to receive the school moneys due and belonging or accruing to such city, town or village as fully and completely as though said city, town or village formed one of the school districts of the county in which it is situated.

§ 17. BOND OF TREASURER.] The treasurer of every such city, town or village shall give such bonds to the board of education thereof, in such sums and with such conditions and sureties as they shall from time to time require in order to insure the safe keeping of the school funds, which shall be in addition to his other bonds; and the said treasurer and his sureties upon such bond shall be accountable to the board for the school moneys that come into his hands, and in case of a failure of such treasurer to give such bonds when required thereto by such board within ten days thereafter, such treasurer's office shall become vacant and the mayor and council of such city, or the president and board of trustees or other governing body of such town or village shall appoint another person in his place who shall give such additional bonds.

§ 18. FUNDS—HOW KEPT.] All moneys required to be raised by virtue of this act shall be paid in cash or in the warrants hereinafter provided, drawn on the school funds only, and such moneys and all moneys received by every such city, town or village for the use of the common schools therein, shall be deposited for the safe keeping thereof with the treasurer of said city, town or village to the credit of the board of education thereof, and shall be by him safely kept separate and apart from any other funds of said city, town or village until drawn from said treasury as herein provided. The treasurer shall pay out the moneys authorized by this act, to be received by him upon warrants drawn by the president, countersigned by the secretary and attested by the seal of said board of education.

§ 19. POWERS OF BOARD OF EDUCATION.] Every such board shall have power and it shall be their duty:

1. To organize and establish such and so many schools in their city, town or village as they shall deem requisite and expedient, and to change and discontinue the same.

2. To purchase, sell, exchange and hire school houses and rooms, lots or sites for school houses, and to fence and improve them as they may deem proper.

3. Upon such lots and upon such sites as now are owned by such city, town or village, or which are situated within the corporate limits thereof and owned by any school district lying wholly or partly within such corporate limits, to build, enlarge, alter, improve and repair school houses, outhouses and appurtenances as they may deem advisable.

4. To purchase, sell, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools; and if they deem it advisable, to purchase class and text books and stationary and other necessary articles required by pupils in their school work, and sell or rent them to the pupils in the schools under their management and control.

5. To have the custody and safe keeping of the school houses, out houses, books, furniture, appurtenances and other school property, and to see that the ordinances and by-laws of the mayor and city council, the president and board of trustees, or the board of trustees or other governing body of such city, town or village in relation thereto are observed.

6. To contract with, license and employ all teachers in said schools, and at their pleasure to remove them.

7. To pay the wages of such teachers out of the moneys appropriated, apportioned and provided by law for the support of common or public schools in such city, town or village, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised by this act.

8. To defray the necessary and contingent expenses of the board, including the compensation of the secretary.

9. To have in all respects the superintendence, supervision and management of the common or public schools in such city, town or village, and from time to time to adopt, alter,

modify and repeal, as they may deem expedient, rules and regulations for their organization, grading, government and instruction or the reception of pupils and their transfer from one school to another, and generally for their good order, prosperity and utility.

10. To prepare and report to the mayor and council, the president and board of trustees, or the board of trustees or other governing body of such city, town or village, such ordinances, by-laws and regulations as may be necessary and proper for the protection, safe keeping, care and preservation of school houses, lots and sites and appurtenances, and all the property belonging to the city, town or village connected with or appertaining to the schools, and to suggest proper penalties for the violations of such ordinances, by-laws and regulations; and annually on or before the 30th day of June of each year, to determine and certify to the clerk of such city, town or village the rate of taxation in their opinion necessary and proper to be levied under the provisions of this act, for the year commencing on the first day of July thereafter, and also at any time to determine how many and what denomination of bonds shall issue and be sold to pay the extraordinary outlays required.

§ 20. VISITING SCHOOLS.] Each member of such board shall visit all the public schools in the city, town or village at least twice in each year of his official term, and every board shall provide that each of such schools shall be visited by a committee of three or more of their number at least once during each term.

§ 21. NON-RESIDENT PUPILS.] Every board of education shall have power to allow the children of persons not resident in the city, town or village to attend the schools thereof under their care and control, upon such terms as said board may prescribe, fixing the tuition which shall be paid therefor.

§ 22. CONCERNING EXPENDITURES.] It shall be the duty of each board in all their expenditures and contracts to have reference to the amount of moneys which shall be subject to their order during the current year for the particular expenditures in question, and not to exceed that amount.

§ 23. TITLE OF PROPERTY—WHERE VESTED.] The title of and to the school houses, sites, lots, furniture, books, apparatus

and appurtenances, and all other property belonging to the school district or districts comprised by and included partly or wholly within every such city, town or village for which a board of education is hereby established or continued, and all such property lying and being within such city, town or village, and all such property in this act mentioned shall be vested in the particular city, town or village wherein it lies or to which it so pertains for the use of schools, and the same while used or appropriated for school purposes shall not be levied upon or sold by virtue of any warrant or execution or other process, nor be subject to any judgment lien, nor be subject to taxation for any purpose whatever; and every such city, town or village shall in its corporate capacity be able and capable to take, hold and dispose of and transfer any real or personal estate and property transferred to it by gift, grant, bequest or devise for the use of the public common schools of said city, town or village, whether the same be transferred in terms to such city, town or village by its proper name and style, or by designations, or to any person or persons or body for the use of said schools.

§ 24. SAME.] Whenever any real property is purchased by any such board of education the transfer or grant and conveyance therefor shall be taken to the "city, town or village of ..... for the use of schools," (inserting the proper corporate name of the particular city, town or village) and whenever any sale is made by any such board it shall be so resolved, which resolution shall be spread upon the records of the board, and the conveyance therefor shall be made and executed in the corporate name of the particular city, town or village by the president of the board of education thereof, attested by the secretary of said board, and under the seal thereof, and acknowledged by said president and secretary. And the president and secretary of every such board shall have full power and authority to execute conveyances upon such sale or exchange, with or without covenants of warranty on behalf of the city, town or village for which their board is established.

§ 25. REPORTS.] It shall be the duty of every such board of education, at least fifteen days before the annual election for members of said board, to prepare and report to the

mayor and city council of its city, or to the president and board of trustees of its town or village, true and correct statements of the receipts and disbursements of moneys under and in pursuance of the provisions of this act during the preceding year, which accounts shall be stated under appropriate heads:

1. The moneys raised by the board under section 13 of this act.

2. The school moneys received by the treasurer of the city, town or village from the county treasurer.

3. The moneys received by the treasurer of the city, town or village under section 16 of this act.

4. All other moneys received by such treasurer, subject to the order of the board, specifying the sources from which they shall have been derived; and to these ends the treasurer shall make report to said board when required and as required, of all school moneys received and disbursed by him.

5. The manner in which sums of money shall have been expended, specifying the amount under each head of expenditure; and the city council of such city, or the board of trustees of such town or village shall, at least one week before such election, cause the same to be published in all the newspapers of such city, town or village which will publish the same gratuitously.

§ 26. POWER OF CITY AUTHORITIES.] The mayor and city council of every such city, and the president and board of trustees of every such town or village shall have power and it shall be their duty to pass such ordinances, regulations or by-laws, as the board of education thereof may report as necessary for the protection, preservation, safe keeping and care of the school houses, lots, sites, appurtenances and appendages, libraries, books and all necessary property belonging to or connected with the schools of such city, town or village and to impose proper penalties for the violation thereof; and all such penalties shall be collected in the same manner that the penalties for the violation of the ordinances or by-laws of such city, town or village are by law collected, and when collected shall be paid to the treasurer of the city, town or village to the credit of the board of education thereof, and shall be subject to their order as herein provided.

§ 27. FINES AND FORFEITURES.] All fines, penalties and forfeitures for the violation of any ordinance or by-law of any such city, town or village shall when collected be paid by the officers receiving the same into the treasury of the city, town or village to the credit of the board of education thereof, and subject to their order as other moneys raised pursuant to the provisions of this act.

§ 28. CLERK TO NOTIFY PERSON ELECTED.] It shall be the duty of the clerk of such city, town or village immediately after the election of any person as a member of the board of education thereof, personally or in writing to notify him of his election, and if any such person shall not within ten days after receiving such notice of his election, take and subscribe the oath as herein provided, and file the same with said clerk, the city council or the board of trustees of the village or town may consider it as a refusal to serve, and proceed to fill the vacancy occasioned by such refusal. And if any person herein appointed as member of any particular board shall neglect so to qualify by the date specially prescribed for such board, the clerk shall notify the council or trustees of such neglect, and a vacancy shall exist for each person so failing to qualify, and the mayor and council or the president and trustees of such city, town or village shall proceed to fill such vacancy or vacancies by the election of suitable and proper persons who shall hold their offices as herein provided for such persons herein appointed.

§ 29. REPORT TO SUPERINTENDENT OF PUBLIC INSTRUCTION.] Every board of education shall on or before the first day of September in each year report by its secretary to the superintendent of public instruction all the facts, financial statements, statistics and other matters relating to the schools, school funds or property under the control of the board which now are or may hereafter be by law required to be reported by county superintendents in their annual reports, and such further facts as may be required by the superintendent of public instruction for his annual report; and the board is not required to so report to the county superintendent except the annual census of children of school age, which must be reported the same as if such city, town or village was one of the school districts in the county where situated.

§ 30. DUTY OF SCHOOL DISTRICT OFFICERS UPON ORGANIZATION OF BOARD.] When any board herein appointed or so elected shall be organized it shall at once assume the management and control of the public schools in such city, town or village and the officers of the school district or districts within the same, shall turn over to them all moneys and other property belonging to said district or districts as are in such city, town or village for the use of schools under the provisions of this act: *Provided, however,* That the taxes heretofore raised and voted therein and not collected, so far as the same shall have been assessed upon the property of and within such city, town or village shall be collected by the proper officers and paid over to the treasurer of such city, town or village for the use of such board of education, and a proportionate amount of the debts and liabilities of such district or districts shall be assumed and paid by such city, town or village through its said board of education the same as though they had been incurred and contracted by such board; and to that end it shall be the duty of the officers of every such school district to make full, true and accurate statements of the property, finances and condition of said districts to the board immediately upon its organization. The county superintendent of schools is authorized and required to reorganize that part of the district or districts outside of the corporate limits, and call school meetings for that purpose, or he may attach such territory to other districts without petition as to him shall seem best for their school interests: *Provided, nevertheless,* That the school district officers of all districts wholly or partly within such city, town or village shall continue to act as such, and the said districts shall continue their existence in law until the complete organization of the board of education as herein provided for such city, town or village: *And provided further,* That the cities of Deadwood, Yankton, Fargo and Vermillion, and the village of Sioux Falls and the public schools therein be and the same are hereby specially excepted from the provisions of this act.

§ 31. SPECIAL ELECTION.] Nothing in this act shall be so construed as to authorize the issue of bonds until after it shall have been submitted to a vote of the people of the city of Bismarck at a regular annual or special election called for

that purpose, and a majority of all the legal voters voting thereat shall have voted in favor thereof.

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

Approved, March 4, 1881.

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## CHAPTER 42.

### DEADWOOD.

AN ACT providing a Board of Education for the City of Deadwood, Dakota Territory, and Regulating the Management of the Public Schools therein.

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

§ 1. BOARD OF EDUCATION ESTABLISHED.] That there be and there is hereby established a board of education for the city of Deadwood, Dakota Territory.

§ 2. NUMBER OF BOARD. BOUNDARIES OF DISTRICTS.] Said board shall consist of eight persons, two for each district of said city, as herein described: All that portion of said city heretofore known as Elizabethtown and Fountain City and vicinity, the same being all that portion of said city lying north of a line drawn from post number one to post number nine of the McIntyre survey of the town of Deadwood, made for townsite entry purposes, and with such line extended in the same direction southeasterly to the city limits as they now are shall constitute the first district; all that portion of said city lying south of said last mentioned line, and north of the center line of Lee street and Preble street, with the center line of Lee street extended in the same direction it takes at its intersection with Sherman street easterly to the city limits, and with the center line of Preble street extended in its same direction westerly to the city limits shall constitute the second district; all that portion of said city lying south of the center line of Pine street, with such line extended in the same di-

rection it takes at its intersection with Sherman street easterly to the city limits, including all of Ingleside, Cleveland, Whitewood gulch, south of said center line of Pine street to the center of the divide between Whitewood and Deadwood gulches, but not including any portion of Deadwood or City Creek gulches shall constitute the fourth district; and all the rest of the said city of Deadwood not included in the foregoing descriptions shall constitute the third district: *Provided, however,* That said board shall have the power at any regular meeting held within two months immediately prior to any annual election for members of the board to change and alter such districts, and to re-district from time to time said city for such purposes.

§ 3. ELECTION OF MEMBERS OF BOARD.] There shall be elected annually in said city by the city council thereof at a meeting of said council, to be held for that purpose on the first Tuesday of May in each year commencing on the first Tuesday of May A. D. 1882, two members of said board, one for each alternate district, commencing with the first and third districts, then the next year from the second and fourth districts, and so alternating each year thereafter.

§ 4. TERMS OF MEMBERS OF FIRST BOARD TO BE DETERMINED BY LOT.] For the purpose of determining the commencement and expiration of their term of office, and to enable the said city council to carry out the provisions of said section 3, the persons hereinafter mentioned, members of said board, shall at the time of their organization determine by lot who of them respectively shall hold for the long term and who for the short term.

§ 5. PERSONS APPOINTED TO HOLD CERTAIN TIME.] The persons hereinafter appointed shall hold their office according to such determination by lot and the provisions of section 3, for the terms of one, two, three and four years respectively from the first Tuesday of May A. D. 1881, and until their successors are duly elected and qualified, and the persons hereafter elected shall hold their office for four years and until their successors are elected and qualified. They shall each take and subscribe an oath to support the constitution of the United States and the laws of congress relating to this Ter-

ritory, and to honestly and faithfully discharge the duties of their office, and file the same with the city clerk.

§ 6. COUNCIL OF CITY MAY FILL VACANCIES.] The city council of said city may at any time elect members of said board to fill the vacancies which may occur from any other cause than the expiration of the term of office of those elected, and the persons thus elected shall serve out the unexpired term, and the board shall have the right to recommend persons to fill such vacancies.

§ 7. COUNCIL MAY REMOVE.] Any member of said board of education of said city may be removed from office for official misconduct by the city council of said city by a vote of two thirds of the members thereof, but a written copy of the charges preferred against said member shall be served upon him and he shall be allowed an opportunity of refuting any such charges of misconduct before removal.

§ 8. TITLE OF BOARD—BODY CORPORATE.] The board of education shall be a corporate body in relation to all the powers and duties conferred upon them by this act to be styled "The Board of Education of the City of Deadwood," and as such shall have the power to sue and be sued, to contract and be contracted with, and shall possess all the powers usual and incident to bodies corporate and as shall be herein given, and shall procure and keep a common seal. A majority of said board shall constitute a quorum. At each annual meeting of the board on the third Tuesday of May they shall elect one of their number president of the board, and whenever he shall be absent a *pro tempore* shall be appointed by them.

§ 9. POWERS OF BOARD.] The members shall receive no compensation nor shall they be interested directly or indirectly in any contract for building or for making any improvement or repairs provided for by this act. They shall have the care and custody of all the public property in said city, pertaining to school purposes and the general management and control of all school matters.

§ 10. ANNUAL AND SPECIAL MEETINGS.] The annual meeting of said board shall be held on the third Tuesday of May in each year. The board shall also meet for the transaction of business as often as once in each month and may adjourn for

any shorter term. Special meetings may be called by the president, or in case of his absence or inability to act, by any member of the board, as often as necessary, by giving a personal notice to each member of the board, or by causing a written or printed notice to be left at his last place of residence at least forty-eight hours before the hour for such special meeting.

§ 11. DUTIES OF SECRETARY OF BOARD.] The said board shall appoint a secretary, who shall hold his office during the pleasure of the board, and whose compensation shall be fixed by the board. The said secretary shall keep a record of the proceedings of the board and perform such other duties as the board may prescribe. The said record or a transcript thereof, certified by the secretary and attested by the seal of the board shall be received in all courts as *prima facie* evidence of the facts therein set forth, and such records and all the books, accounts, vouchers and papers of such board shall at all times be subject to the inspection of the city council or any committee thereof or any taxpayer of said city. For the purpose of economy, the said board, if they deem it advisable, may at any time until their annual meeting in the year 1882, appoint one of their own members secretary, in which event said secretary shall serve without compensation.

§ 12. FURTHER POWERS OF BOARD TO LEVY TAXES, ETC.] The said board of education of said city, shall have power and it shall be their duty to levy and raise from time to time by tax such sums as may be determined by the board of education to be necessary and proper for any or all the following purposes:

1. To purchase, exchange, lease or improve sites for school houses.
2. To build, purchase, lease, enlarge, alter, improve and repair school houses and their outhouses and appurtenances.
3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages; but the powers herein granted shall not be deemed to authorize the furnishing with class or text books any scholar whose parents or guardians shall be able to furnish the same.
4. To procure fuel and defray the contingent expenses of the board, including the compensation of the secretary.

5. To pay teachers' wages after the application of public moneys which may by law be appropriated and provided for that purpose.

§ 13. COLLECTION OF TAXES.] The tax so to be levied as aforesaid and collected by virtue of this act shall be collected in the same manner as other city taxes, except the first tax, to enable the said board to operate until the taxes of 1881-2 can be made available, which shall be levied and collected as hereinafter provided; and for that purpose said board of education shall have power to levy and cause to be collected such taxes as are herein authorized, and shall cause the rate for such purpose to be certified by the secretary to the city clerk in time to be added to and put upon the annual tax list of the city; and it shall be the duty of the city clerk to calculate and extend upon the annual assessment roll and tax list such tax so levied by said board, and such tax shall be collected as other city taxes are collected. And in case the city council shall fail to levy any tax for city purposes, or shall fail to cause an assessment roll or tax list to be made as may hereafter be provided by ordinance, the said board may cause an assessment roll and tax list to be made out by its secretary and put into the hands of the city treasurer with a warrant for the collection of the same, under the hand of the president and seal of the board and attested by the secretary, and may cause the same to be collected in the same manner as other city taxes are collected or as may by resolution of such board be provided.

§ 14. AMOUNT OF MONEYS RAISED TO BE LIMITED.] The amount raised for teachers' wages and contingent expenses shall be only such as together with the public moneys coming to said city from the territorial and county funds and other sources, shall be sufficient to maintain efficient and proper schools for the children in said city, nor shall the tax for the purchasing, leasing or improving sites, and the building, purchasing, leasing, enlarging, altering or repairing of school houses exceed in any one year two cents on the dollar of valuation of the taxable property of said city, and the said board of education are authorized and directed, when necessary, to borrow in anticipation the amount of the taxes so to be raised, levied and collected as aforesaid.

§ 15. MAY ISSUE BONDS. ELECTION.] The board of education of said city are authorized and empowered and it shall be their duty whenever the said board shall deem it necessary, in order to an efficient organization and establishment of schools in said city, and when the taxes authorized by this act shall not be sufficient or shall be deemed by said board burdensome upon the taxpayers of said city, from time to time to issue the bonds of said city in denominations of not less than one hundred dollars, payable ten years after date, bearing interest not exceeding the rate of eight per cent. per annum, payable semi-annually on the first days of January and July, and upon their face, to show they are issued for school purposes, and cause the same to be sold and negotiated at not less than ninety cents on the dollar, and the money realized therefrom deposited with the city treasurer to the credit of the said board of education. And when any bonds shall be negotiated it shall be the duty of the said board of education of said city to provide by tax for the payment of the principal and interest of said bonds: *Provided, however,* That at no time shall the aggregate amount for bonds, issued under the provisions of this act, exceed twenty thousand dollars: *Provided, however,* That no bonds shall be issued in pursuance of the provisions of this act, until the proposition to issue the same shall have first been submitted to a vote of the electors of said district, at a general, annual or special election called for that purpose, and no bonds shall be issued unless a majority of all the votes cast at such election be in favor of issuing such bonds.

§ 16. CITY TREASURER TO BE CUSTODIAN OF SCHOOL FUNDS.] All moneys to be raised pursuant to the provisions of this act, and all school moneys which shall by law be appropriated to or provided for said city shall be paid over to the city treasurer of said city, and the county treasurer of Lawrence county shall from time to time as he shall receive the county school funds, and at least once in each month on the first Monday thereof pay over to said city treasurer the proportion thereof belonging to the said city, the same as though said city constituted one school district; and for that purpose said board shall have power to cause all needful steps to be taken, including census reports, or other acts or things, to enable said board to receive the school moneys belonging to said city as

fully and completely as though said city formed one of the school districts of said Lawrence county, the proportion of money coming to said district to be apportioned according to the last census of said district.

§ 17. BOND OF CITY TREASURER.] The treasurer of said city shall give such bonds to such board of education, in such sums and with such conditions and sureties as they shall from time to time require in order to insure the safe keeping of the school funds, which shall be in addition to his other bonds; and the said treasurer and his sureties on such bond shall be accountable to the board for the school moneys that come into his hands, and in case of a failure of such treasurer to give such bonds when required thereto by such board within ten days thereafter, such treasurer's office shall become vacant and the mayor and council of said city shall appoint another person to fill his place.

§ 18. ALL SCHOOL FUNDS TO BE CASH. DEPOSIT.] All moneys required to be raised by virtue of this act shall be paid in cash or in the warrants hereinafter provided, drawn on the school funds only, and such moneys and all moneys received by said city for the use of the public schools therein, shall be deposited for safe keeping thereof with the treasurer of said city to the credit of the board of education, and shall be by him safely kept separate and apart from any other funds of said city until drawn from said treasury as herein provided. The treasurer shall pay out the moneys authorized by this act, to be received by him upon warrants drawn by the president, countersigned by the secretary and attested by the seal of said board of education.

§ 19. FURTHER POWERS OF BOARD.] The said board shall have power to and it shall be their duty:

1. To organize and establish such and so many schools in said city as they shall deem requisite and expedient, and to change and discontinue the same.
2. To purchase, sell, exchange and hire school houses and rooms, lots and sites for school houses, and to fence and improve them as they may deem proper.
3. Upon such lots and upon such sites as now are owned by such school districts numbers two and five, to build, en-

large, alter, improve and repair school houses, outhouses and appurtenances as they may deem advisable.

4. To purchase, sell, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for schools.

5. To have the custody and safe keeping of the school houses, outhouses, books, furniture and appurtenances and to see that the ordinances of the mayor and city council in relation thereto are observed.

6. To contract with, license and employ all teachers in said schools, and at their pleasure to remove them.

7. To pay the wages of such teachers out of the moneys appropriated and provided by law for the support of common schools of said city so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised by this act.

8. To defray the necessary and contingent expenses of the board, including the compensation of the secretary.

9. To have in all respects the superintendence, supervision and management of the public schools of said city, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, grading, government and instruction or the reception of pupils and their transfer from one school to another, and generally for their good order, prosperity and utility.

10. To prepare and report to the mayor and city council such ordinances and regulations as may be necessary and proper for the protection, safe keeping, care and preservation of school houses, lots and sites, appurtenances, and all the property belonging to the city, connected with or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations; and annually on or before the first Monday in July to determine and certify to the city clerk of said city the rate of taxation in their opinion necessary and proper to be levied under the provisions of this act, for the year commencing on the first day of July thereafter, and also at any time to determine how many and what denomination of bonds shall issue and be sold to pay the extraordinary outlays required.

§ 20. VISITING SCHOOLS.] Each member of said board shall visit all the public schools in said city at least twice in each year of his official term, and the said board shall provide that each of said schools shall be visited by a committee of three or more of their number at least once during each term.

§ 21. NON-RESIDENT PUPILS.] Said board of education shall have power to allow the children of persons non-resident in said city to attend the schools of said city under the control and care of said board upon such terms as said board shall prescribe, fixing the tuition which shall be paid therefor.

§ 22. EXPENDITURES NOT TO EXCEED REVENUES.] It shall be the duty of the board in all their expenditures and contracts to have reference to the amount of moneys which shall be subject to their order during the current year for the particular expenditures in question, and not to exceed that amount.

§ 23. TITLE TO SCHOOL PROPERTY.] The title of the school houses, sites, lots, furniture, books, apparatus and appurtenances, and all other property belonging to the school districts in said city of Deadwood and all such property in this act mentioned shall be vested in the city of Deadwood for the use of schools, and the same while used or appropriated for school purposes shall not be levied upon or sold by virtue of any warrant or execution or other process, nor be subject to any judgment lien, nor be subject to taxation for any purpose whatever; and the said city in its corporate capacity shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise for the use of public schools of said city, whether the same be transferred in terms to said city, by its proper style, or by designations, or to any person or persons or body for the use of said schools.

§ 24. SAME.] Whenever any real property is purchased by said board the transfer or grant and conveyance therefor shall be taken to the city of Deadwood for the use of schools, and whenever any sale is made by said board it shall be so resolved, which resolution shall be spread upon the records of said board, and the conveyance therefor shall be executed in the name of the city of Deadwood, by the president of said board and attested by the secretary of said board, and under the seal thereof, and acknowledged by said presi-

dent and secretary. And said president and secretary shall have full power and authority to execute conveyances upon such sale or exchange, with or without covenants of warranty on behalf of said city.

§ 25. BOARD TO MAKE REPORT TO CITY COUNCIL. WHAT TO CONTAIN.] It shall be the duty of said board, at least fifteen days before the annual election for members of said board, in each year, to prepare and report to the mayor and city council true and correct statements of the receipts and disbursements of moneys under and in pursuance of the provisions of this act during the preceding year, which accounts shall be stated under appropriate heads:

1. The moneys raised by the board under section twelve of this act.

2. The school moneys received by the treasurer of the city from the county treasurer.

3. The moneys received by the treasurer of the city, under section fifteen of this act.

4. All other moneys received by the city treasurer, subject to the order of the board, specifying the sources from which the same shall have been derived; and to these ends the city treasurer shall make report to said board when required and as required, of all school moneys received and disbursed by him.

5. The manner in which sums of money shall have been expended, specifying the amount under each head of expenditure; and the city council shall at least one week before such election, cause the same to be published in the newspapers of said city, which will publish the same gratuitously.

§ 26. CITY COUNCIL TO PASS CERTAIN ORDINANCES.] The mayor and city council of said city, shall have the power and it shall be their duty to pass such ordinances and regulations as the said board of education may report as necessary for the protection, preservation, safe keeping and care of the school houses, lots, sites, appurtenances and appendages, libraries, and all necessary property belonging to or connected with the schools of said city and to impose proper penalties for the violation thereof; and all penalties shall be collected in the same manner that the penalties for the violation of city ordinances are by law collected, and when collected shall be paid

to the treasurer of the city, to the credit of said board of education and shall be subject to their order as herein provided.

§ 27. FINES TO GO TO SCHOOL FUND.] All fines, penalties and forfeitures for the violation of any city ordinance of said city, and all fines, penalties and forfeitures for any criminal offense committed within said city shall when collected be paid by the officers receiving the same into the city treasury to the credit of said board of education and subject to their order as other moneys raised pursuant to the provisions of this act.

§ 28. CITY CLERK TO GIVE NOTICE TO PERSON ELECTED MEMBER OF BOARD.] It shall be the duty of the clerk of said city, immediately after the election of any person as a member of said board of education, personally or in writing to notify him of his election, and if any such person shall not within ten days after receiving such notice of his election, take and subscribe the oath as herein provided, and file the same with said clerk, the city council may consider it as a refusal to serve, and proceed to fill the vacancy occasioned by such refusal.

§ 29. PERSONS APPOINTED.] That E. G. Dudley and John M. Gilman, for the first district; R. C. Lake and Alvin Fox, for the second district; L. R. Graves and William Carey, for the third district; and Dolph Edwards and Louis Reubens, for the fourth district of said city, are hereby appointed members of said board of education, and they shall on or before the first Monday of April, A. D. 1881, qualify by taking the oath herein prescribed, and if any shall neglect so to qualify by that time the clerk shall notify the city council of such neglect, and a vacancy shall exist for each person so failing to qualify, and the mayor and council shall proceed to fill such vacancy or vacancies by the election of suitable and proper persons as herein provided, who shall hold their office as herein provided, for such persons herein appointed.

§ 30. FIRST MEETING AND DUTIES OF BOARD.] The board so appointed or elected shall meet on the fourth Tuesday of April, A. D. 1881, and shall organize and determine their length of term as provided in this act, and upon such organization shall at once assume the management and control of the public schools in said city, and the present school officers

of the district or districts within said city shall turn over to them all moneys and other property belonging to such district, and from thence so much of such districts as are in the city of Deadwood shall cease to exist, and all property belonging thereto shall vest in the city of Deadwood, for the use of the schools, under the provisions of this act: *Provided, however,* That the tax heretofore raised and voted therein and not collected, so far as the same shall have been assessed upon the property of said city shall be collected by the proper officers as though this act had not passed, and paid over to the city treasurer for the use of such board of education, and a proportionate amount of the debts and liabilities of said district shall be assumed and paid by said city through said board of education the same as though they had been incurred and contracted by said board; and to that end it shall be the duty of the officers of said school district to make full, true and accurate statements of the property, finances and condition of said districts to said board immediately upon its organization; and the county superintendent of schools shall have power to reorganize that part of the districts outside of the city, and call one or more school meetings of the electors therein for that purpose.

§ 31. BOARD TO LEVY TAX TO MEET EXPENSES.] As soon after their organization as practicable, the board herein appointed and provided for shall make a careful calculation and estimate of the amount of moneys necessary to be raised to place the schools as soon as may be in an efficient condition to be used, until the taxes of 1881-2 can be made available. And it shall be their duty to levy and collect such amount upon the property in the city as appears upon the then last assessment rolls of the county of Lawrence, and such additions as they may cause to be made to raise such amount and to provide for the collection of the same before the first day of September, A. D. 1881; and for that purpose the board shall cause a tax list to be made out by the secretary of the board, based upon the then last assessment roll of the said county of Lawrence, of property and persons liable to taxation, or situated in said city, and adding thereto such other property in said city as is or may be liable to taxation; and shall place the same in the hands of the city treasurer, with a warrant for

the collection of said tax, under the hand of the president of the board, and the seal thereof, and attested by the secretary; and thereupon the city treasurer shall proceed to levy and collect the said tax by distress and sale of personal property, and shall collect the same by the first day of July, 1881, so far as the same can be collected out of personal property. And if any tax upon real property shall not be collected by the first day of July, 1881, he shall advertise the said real property, the tax upon which shall remain so delinquent, for sale for the payment of said tax, for three successive weeks, in one of the newspapers published in said city, and shall proceed to sell the same on the third Monday of August, 1881, at the county clerk's office in said city, and shall adjourn the sale from day to day until all is sold, or until the first day of September, A. D. 1881; and if the same is not sold by that day that part of the tax remaining uncollected shall be carried forward by him upon the next assessment roll and tax list, and added to such tax list and collected as other taxes are collected; and the owner of such real property shall have the same length of time for the redemption of such real property from such sale as in case of other city taxes, and the title to the same shall be made in the same manner as in the case of sales for other city taxes; and for the collection of the taxes and the performance of any duty under the provisions of this act, the city treasurer and city clerk shall have and receive such reasonable compensation as the said board shall from time to time fix, to be paid out of the funds under the control of said board.

§ 32. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 33. DISTRICT OFFICERS TO CONTINUE UNTIL BOARD IS ORGANIZED.] This act shall take effect and be in force from and after its passage and approval: *Provided, nevertheless,* That the school district officers of school districts number two and five shall continue to act as such, and the said districts shall continue their existence in law until the organization of said board of education as herein provided.

Approved, March 5, 1881.

## CHAPTER 43.

## FARGO.

AN ACT to amend "An Act providing a Board of Education for the City of Fargo, Dakota Territory, and Regulating the Management of the Public Schools therein," approved, February 20, 1879.

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

§ 1. AMENDING SECTION 15.] That section fifteen of said act be and the same is hereby amended by striking out the word "twenty" where it occurs in the last line of said section and inserting in lieu thereof the words "thirty-five."

§ 2. APPORTIONMENT OF COUNTY FUNDS.] That section sixteen of said act be and the same is hereby amended to read as follows: "All moneys to be raised pursuant to the provisions of this act, and all school moneys which shall by law be appropriated to or provided for said city shall be paid over to the city treasurer of said city, and the secretary of the board of education shall report to the county superintendent the number of persons in said city between the age of five and twenty-one years as required by the general school law, and the county superintendent of public schools for Cass county shall apportion the general school and school poll fund to the city of Fargo, the same as though said city formed one of the school districts of Cass county."

§ 3. That all acts or parts of acts in conflict with this act are hereby repealed.

§ 4. That this act shall take effect and be in force from and after its passage and approval.

Approved, February 17, 1881.

## CHAPTER 44.

## FARGO.

AN ACT amending the "Act providing a Board of Education for the City of Fargo, Dakota Territory, and Regulating the Management of Public Schools therein," approved February 20, 1879.

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

§ 1. BOARD OF EDUCATION—HOW COMPOSED.] That the board of education of the said city of Fargo shall consist of two members from each district, and in case at any time said districts are increased in number the city council at its next regular session thereafter shall elect two persons from each new district formed or added, as members of said school board from each new district or districts, who shall hold their office until the next regular election of school directors, at which time there shall be elected by said city council two persons from each new district as members of said board of education. Said directors so elected to represent a new district shall at the first regular meeting of said board of education after their election, determine by lot who shall hold office for the long time and who for the short time. At each regular election of school directors thereafter there shall be elected one person from each district as a member of said board of education, except in case of new districts being formed or added, in which case there shall be elected two directors from each new district in accordance with the foregoing provisions of this section.

§ 2. DIRECTORS MUST BE RESIDENT OF DISTRICT THEY REPRESENT.] All directors must be residents of the district which they are elected to represent. All acts or parts of acts inconsistent herewith are hereby repealed.

[§ 3.] This act to take effect as soon as passed and approved.

Approved, February 26, 1881.

## CHAPTER 45.

## SIOUX FALLS.

AN ACT to amend An Act entitled "An Act providing a Board of Education for the Village of Sioux Falls, Dakota Territory," approved, February 20, 1879.

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

§ 1. BOARD OF EDUCATION—HOW COMPOSED.] That section two (2) of an act, entitled "An act providing a board of education for the village of Sioux Falls, Dakota Territory," be amended so as to read as follows: "§ 2. Said board shall consist of eight members who shall hold their respective offices for the term of two years and until their successors are elected and qualified. Four of said members shall be elected each year by the electors of said village, at the annual election for village officers. Said election shall be by ballot, and at the same time and conducted in the same manner as the election for trustees of said village."

§ 2. Be it further enacted, that section three (3) of said act be amended by striking out the word "19th" where it appears in said section, and inserting in lieu thereof the word "10th."

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

Approved, February 14, 1881.

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CHAPTER 46.

## YANKTON.

AN ACT amending An Act entitled "An Act Providing a Board of Education for the City of Yankton, Dakota Territory, and Regulating the Management of the Public Schools therein.

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

§ 1. FINES, &C., TO BE PAID INTO SCHOOL FUND.] That section twenty-seven of an act entitled "An act providing a Board

of Education for the city of Yankton, Dakota Territory, and regulating the management of the public schools therein," approved January 6th, 1875, be and the same is hereby amended to read as follows: "§ 27. All fines, penalties and forfeitures for the violation of any city ordinance of said city shall, when collected, be paid by the officers receiving the same into the city treasury to the credit of said Board of Education and subject to their order as other moneys raised pursuant to the provisions of this act.

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

Approved, February 25, 1881.

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## CHAPTER 47.

### YANKTON.

AN ACT amending An Act, entitled "An Act providing a Board of Education for the City of Yankton, Dakota Territory, and Regulating the Management of the Public Schools therein."

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

§ 1. BOARD AUTHORIZED TO ISSUE BONDS.] That section fifteen of an act, entitled "An act providing a board of Education for the city of Yankton, Dakota Territory, and regulating the management of the public schools therein," approved, January 6, 1875, be and the same is hereby amended so as to read as follows: "§ 15. The board of Education of said city are authorized and empowered and it shall be their duty whenever the said board shall deem it necessary in order to an efficient organization and establishment of schools in said city, and when the taxes authorized by this act shall not be sufficient or shall be deemed by said board burdensome upon the taxpayers of said city, from time to time to issue the bonds of said city, in denominations of not less than one hundred dollars, payable not less than five nor more than twenty years after date, and bearing interest at a rate not ex-

ceeding eight per centum per annum, payable semi-annually on the first days of January and July, and upon their face to show they are issued for school purposes, and cause the same to be sold and negotiated at not less than ninety-five cents on the dollar, and the money realized therefrom to be deposited with the city treasurer to the credit of said board of education; and when said bonds are so negotiated it shall be the duty of said board of education to provide by tax for the payment of the principal and interest of said bonds; and for that purpose said board of education are authorized and empowered to cause to be levied in each year a tax not to exceed five mills on the dollar of valuation of the taxable property of said city to be known as the sinking fund tax. And whenever the amount in the hands of the city treasurer of such tax collected shall equal or exceed three hundred dollars, or whenever there shall remain in the hands of the city treasurer for the use of schools, from whatever fund received, an amount exceeding three hundred dollars, which in the judgment of said board of education is not and will not be needed by the fund in which it belongs, before the collection of the next annual tax, the said board of education is authorized and empowered to apply such sums in payment of the bonds so issued then due and unpaid; and if there be none of said bonds then due and unpaid, the said board of education is authorized and empowered to purchase said outstanding bonds at their market value, with and to the extent of such sums so remaining in the city treasury for the use of schools. And the said board of education is further authorized and empowered whenever the bonded debt of the city for the use of schools can be funded at a lower rate of interest, and the indebtedness then existing be thereby lessened and decreased, to issue new bonds of the city, bearing such lower rate of interest, payable as hereinbefore provided, and to exchange the same for those already issued, or to negotiate such new bonds and with the proceeds thereof to purchase such outstanding bonds; and all bonds paid, purchased or received in exchange, as provided for in this section, shall be cancelled and destroyed by the board of education: *Provided, however,* That [at] no time shall the aggregate amount of outstanding bonds issued under the provisions of this act exceed twenty thousand dollars.

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

Approved, February 21, 1881.

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## Fish.

### CHAPTER 48.

#### FISH IN GOOSE RIVER.

AN ACT to Protect the Passage of Fish in the Goose River.

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

§ 1. PERSON BUILDING DAM TO MAKE PASSAGEWAY FOR FISH.] There shall be erected and maintained by the owner of any dam across the Goose river, in this Territory, a sufficient passageway or chute for the passage of fish over such dam, which chute shall be kept open and free for the passage of fish by such owner or occupant.

§ 2. WHEN COMMISSIONERS OF COUNTY MAY BUILD PASSAGEWAY.] Whenever the owner or occupant of any such dam neglects or refuses to construct such passageway or chute over the same, the commissioners of the county in which such dam is situated shall proceed on notice to them in writing, made by at least five freeholders of the county, to let the work of erecting such passageway or chute, and providing materials therefor to the lowest responsible bidder, and all expense attendant upon the erection or maintenance of the same shall be paid by the owner or occupant of the dam, which shall be recovered in the name of the person so building such passageway or chute, upon the acceptance of the same by the county commissioners.

§ 3. OBSTRUCTIONS TO PASSAGE OF FISH IN ANY STREAM MAY BE REMOVED.] Any person may take up, remove or clear away

any obstruction to the natural transit of fish, except mill dams, placed in any of the waters of this Territory.

§ 4. All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved, March 3, 1881.

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## Justice of the Peace.

### CHAPTER 49.

#### DELL RAPIDS.

AN ACT to Establish the office of Justice of the Peace in the Village of Dell Rapids.

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

§ 1. JUSTICE TO BE ELECTED.] That at the next annual election in the village of Dell Rapids the qualified electors of said village may elect a village justice of the peace, who shall qualify in the same manner as provided for the qualifications of township justices of the peace, and he shall have jurisdiction of all offenses against the ordinances of said village and concurrent jurisdiction with other justices in the county, and shall hold his office for the term of one year and until his successor is elected and qualified.

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

Approved, March 3, 1881.

## CHAPTER 50.

## MORTON COUNTY.

AN ACT to Provide for the Election of Justices of the Peace in and for the County of Morton, Dakota Territory.

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

§ 1. SPECIAL ELECTION TO CHOOSE JUSTICES.] It shall be the duty of the board of county commissioners of Morton county at its first meeting, or as soon as practicable after the passage and approval of this act, to call a special election for four justices of the peace for said county, and the county clerk of said county shall give at least ten days' notice of such election by posting notices of the same in three of the most public places in said county.

§ 2. TERM OF OFFICE.] The justices of the peace so elected when qualified shall hold their offices until the general election of 1882, and until their successors are elected and qualified.

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

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

ENDORSED.—Received at Executive Office, February 26, at 6:00 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.*

## Legalizing Acts.

### CHAPTER 51.

#### BARNES COUNTY ELECTION.

AN ACT to Legalize the acts of the Voters of Barnes County, D. T.

WHEREAS, The county commissioners of Barnes county did on the second day of November, A. D. 1880, submit to the vote of the people of said county the proposition whether the people of said county would build a court house and jail at a cost of thirty thousand dollars (\$30,000), and said proposition was accompanied by the proposition to tax the property of said county to pay for said court house and jail, and

WHEREAS, Said propositions were not submitted in strict conformity to law, and not having been advertised for its full time of four (4) weeks, as required by section thirty-four (34) of chapter twenty-one (21) of the Dakota code of 1877; therefore

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

§ 1. MAKING VALID THE VOTE TO BUILD COURT HOUSE.] That the vote taken in the county of Barnes, Dakota Territory, on the second day of November, A. D. 1880, is hereby declared legal, and the same is hereby recognized and approved as having the same force and effect as if said vote had been had in strict accordance with law and said section of chapter twenty-one of said code

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

ENDORSED.—Received at Executive Office, Feb. 11, at 12:30 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 House 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 52.

## GRANT COUNTY—W. T. BURMAN.

AN ACT to Legalize the acts of W. T. Burman as County Commissioner of Grant County, D. T., and declaring F. L. Cameron duly elected to said office.

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

§ 1. ACTS MADE LEGAL.] All acts of W. T. Burman as county commissioner of Grant county, D. T., so far as his never having been duly elected and qualified are hereby legalized.

§ 2. ACT—HOW CONSTRUED.] Nothing in this act shall be so construed so as to allow the said W. T. Burman to officiate as county commissioner on and after the passage and approval of this act.

§ 3. F. L. CAMERON DECLARED ELECTED.] That F. L. Cameron of Grant county, D. T., is hereby declared lawfully elected to the office of county commissioner of said Grant county, at the general election of 1879, and is allowed thirty (30) days from and after the passage and approval of this act to qualify and commence his duties as such officer.

§ 4. That all acts and parts of acts in conflict with this act are hereby repealed.

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

Approved, February 17, 1881.

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CHAPTER 53.

## J. PARKER HAYWARD.

AN ACT to Legalize the acts of J. Parker Hayward, as Notary Public of the Territory of Dakota.

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

§ 1. CERTAIN OFFICIAL ACTS DECLARED LEGAL.] That all acknowledgments of deeds, mortgages and other instruments in

writing, and all oaths administered by and affidavits taken before J. Parker Hayward, notary public of the Territory of Dakota, between the sixteenth day of February, A. D. 1880, and the third day of June, A. D. 1880, are hereby legalized; and such acknowledgments and affidavits shall have the same force and effect as if the said J. Parker Hayward as such notary public was duly authorized to take and certify acknowledgments of deeds, mortgages, and other instruments in writing, and to take and certify to the administering of oaths and affidavits by the laws of this Territory.

§ 2. DEEDS, MORTGAGES, ETC., DECLARED LEGAL.] That all deeds, mortgages, and other instruments in writing, acknowledged by said J. Parker Hayward, as notary public, between the dates aforesaid, which now are or shall hereafter be placed on record, shall be and they are hereby declared to be duly recorded, and shall be notice to all persons the same as though said deeds, mortgages and other instruments had been acknowledged before and certified by an officer competent to take and subscribe acknowledgments under the laws of this Territory.

§ 3. OFFICIAL ACT DECLARED VALID.] That deeds, mortgages, and other instruments in writing, the acknowledgment of which had been taken and certified by and before J. Parker Hayward, as notary public of this Territory, between the sixteenth day of February, A. D. 1880, and the 3d day of June, A. D. 1880, are hereby declared to be acknowledged and certified, and the record of the same shall be as valid and binding in law and equity as though the same had been acknowledged before some officer duly authorized by the laws of this Territory to take and certify acknowledgments of deeds, mortgages, and other instruments in writing.

§ 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed so far as they apply to the cases herein provided for by this act.

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

Approved, February 8, 1881.

## CHAPTER 54.

GEORGE H. WALSH.

AN ACT to Legalize the acts of George H. Walsh, as Notary Public of the Territory of Dakota.

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

§ 1. OFFICIAL ACTS DECLARED LEGAL.] That all acknowledgments, deeds, mortgages and all other instruments in writing, and all oaths administered by and affidavits taken before George H. Walsh, notary public of the Territory of Dakota, between the 15th day of February, A. D. 1880, and the fourth day of January, A. D. 1881, are hereby legalized; and such acknowledgments shall have the same force and effect as if the said George H. Walsh, as such notary public, was duly authorized to take and certify acknowledgments of deeds, mortgages, and other instruments in writing, and to take and certify to the administering of oaths and affidavits by the laws of this Territory.

§ 2. PAPERS ACKNOWLEDGED DECLARED LEGAL.] That deeds, mortgages, and other instruments in writing, the acknowledgments of which had been taken and certified by and before George H. Walsh, as notary Public of this Territory, between the fifteenth (15) day of February, A. D. 1880, and the fourth (4th) day of January, A. D. 1881, are hereby declared to be acknowledged and certified, and the record of the same shall be as valid and binding in law and equity as though the same had been acknowledged before some officer duly authorized by the laws of this Territory to take and certify acknowledgments of deeds, mortgages, and other instruments in writing.

§ 3. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed so far as they apply to the cases herein provided for by this act.

§ 4. That this act shall take effect and be in force from and after its passage and approval.

Approved, February 16, 1881.

## Legalizing Town Plats.

### CHAPTER 55.

#### NEW MADISON.

AN ACT to Legalize the Plats of New Madison and Kennedy's Subdivision of Block number two (2) of New Madison, and the balance of territory within the Incorporate limits of the Town of New Madison, under the name of Madison.

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

§ 1. TOWN PLATS OF NEW MADISON, ETC., MADE LEGAL.] That the town plats of New Madison and Kennedy's subdivision of block number two (2) of New Madison, be and the same are hereby made and constituted the legal plats of Madison, and said plats, together with the balance of territory within the corporate limits of the town of New Madison, Lake county, Dakota Territory, are hereby made and constituted the town of Madison, and all transfers of real estate hereafter made within said plats or within said towns shall be in the name of Madison.

§ 2. REGISTER OF DEEDS AUTHORIZED TO RECORD.] The register of deeds of Lake county, Dakota Territory, is authorized and it is hereby made his duty to file and record in the records of his office a correctly enrolled copy of this act, the correctness of which shall be certified to by the territorial secretary, and such record shall be sufficient evidence of the change of name of said New Madison to Madison.

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

ENDORSED.—Received at Executive Office, February 28, at 5:30 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 House 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 56.

## BISMARCK—EDWINTON.

AN ACT to make the Plat of the Town of Edwinton the legal Plat of the City of Bismarck.

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

§ 1. CERTAIN PLAT MADE LEGAL.] That the plat of the town of Edwinton, in the county of Burleigh, Dakota Territory, embracing the north half of section four, township one hundred and thirty-eight, range eighty, west of the fifth principal meridian, Dakota Territory, executed by George W. Smith, proprietor, and filed for record in the office of the register of deeds in and for the county of Burleigh, Dakota Territory, on the ninth day of February, A. D. eighteen hundred and seventy four, be and the same is hereby made the legal plat of the city of Bismarck, Dakota Territory, for all purpose from and after the date of its said filing in the office aforesaid.

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

Approved, February 19, 1881.

## CHAPTER 57.

## BIG STONE CITY.

AN ACT to Consolidate the Plats of Big Stone City, Inkpa City and Geneva, and Legalize the same under the title of Big Stone City.

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

§ 1. CERTAIN PLATS CONSOLIDATED.] That the town plats of Big Stone City, Inkpa City and Geneva be and are hereby consolidated under the name of Big Stone City, and the consolidated plats shall be hereafter known as the plat of Big

Stone City, and the blocks of said consolidated plats may be numbered consecutively as provided by law.

§ 2. REGISTER OF DEEDS AUTHORIZED TO FILE PLAT.] The register of deeds of Grant county, D. T., is hereby authorized and instructed to file said consolidated plat of Big Stone City in his office as provided in the laws of this Territory, and said consolidated plat shall from and after said filing be the only authorized plat of said Big Stone City.

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

Approved, February 17, 1881.

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## Licenses.

### CHAPTER 58.

#### MORTON COUNTY.

AN ACT to Relieve certain Citizens of Morton County from paying Liquor Licenses to said County, and for other Purposes.

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

§ 1. CERTAIN PERSONS RELIEVED FROM PAYING LICENSE.] That all dealers in liquor within the county of Morton, who can produce a receipt signed by the county treasurer of Burleigh county, setting forth that the party holding such receipt has paid into the Burleigh county treasury the sum of (\$200) two hundred dollars in full for liquor license for the year 1881; such liquor dealers holding such receipts, on presentation of the same to the county board of commissioners of said Morton county, shall be relieved of further payment of liquor license to said Morton county for and during the year 1881: *Provided, however,* That in case any such dealers in liquor in Morton county shall not have paid into the county treasury

of Burleigh county the full amount of the county license due under the laws of this Territory, then the said full amount of such license, or the portion remaining due and unpaid, shall be paid by the said parties into the treasury of Morton county, and it is hereby made the duty of the county commissioners of Morton county to proceed under the law to collect the same.

§ 2. BURLEIGH COUNTY TO REFUND LICENSES.] The board of county commissioners of Burleigh county are hereby required to audit and allow the claim of the county of Morton for the amount of each and every liquor license paid for the year 1881, into the Burleigh county treasury by dealers in liquor west of the Missouri river, now included in the county of Morton, to the amount of three quarters of such licenses; and it is hereby made the duty of the treasurer of Burleigh county to pay such audited claims on the demand of the commissioners of Morton county.

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

ENDORSED.—Received at Executive Office, February 26, at 6:00 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.*

## Roads.

### CHAPTER 59.

#### DELL RAPIDS TO FORRESTBURG.

AN ACT to change in certain respects the Territorial Highway established in the year 1876, from Dell Rapids, in Minnehaha County, Territory of Dakota, *via* Madison and Herman, in Lake County, to Forrestburg, in the County of Miner and Territory aforesaid.

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

§ 1. CERTAIN PORTION OF HIGHWAY DISCONTINUED.] That so much of the territorial highway established in the year 1876, from Dell Rapids, in Minnehaha county, Territory of Dakota, *via* Madison and Herman, in Lake county, to Forrestburg, in the county of Miner and Territory aforesaid, be discontinued, as runs across section number five (5), in township number one hundred and five (105), in range number fifty-one (51), in Lake county, Dakota Territory.

§ 2. HIGHWAY ESTABLISHED.] That there be and is hereby established as a portion of the said territorial highway, a certain portion of land of the legal width of highways described as follows, viz: Commencing at the southeast corner of section number five (5), in township number one hundred and five (105) of range number fifty-one (51), in said Lake county, Dakota Territory; thence running west to the southwest corner of said section, along said section line, one half of the land comprising said highway being on either side of said section line; thence running north along west line of said section number five (5), one half of the land comprising said highway being upon either side of said west section line to the point on the west side of said section, whence the said territorial highway intersects said section line.

Approved, March 3, 1881.

## School Districts.

### CHAPTER 60.

#### GRAND FORKS COUNTY.

**AN ACT establishing School District Number One of Grand Forks County, Dakota Territory, as an Independent School District, to be designated as Independent School District Number One of Grand Forks County, Dakota Territory.**

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

§ 1. BOUNDARIES OF INDEPENDENT DISTRICT.] That all that portion of Grand Forks county, Dakota Territory, described as follows, viz: all that portion embraced within the limits of the city of Grand Forks, together with the balance of section three (3) not included within said city limits; all of sections four (4), five (5) and six (6), in township number one hundred and fifty-one (151), north of range number fifty (50) west, and sections thirty-one (31), thirty-two (32), thirty-three (33), thirty-four (34) and thirty-five (35), in township one hundred and fifty-two (152) north, of range number fifty (50) west, and any other territory that now is embraced and known as school district number one of said county shall be and is hereby constituted and established as an independent school district to be known and designated as independent school district number one of Grand Forks county, D. T., and a board of education is hereby established for the same.

§ 2. BOARD OF EDUCATION OF WHOM TO CONSIST.] Said board of education shall consist of seven persons, a majority of whom shall constitute a quorum to transact business. Four members of said board shall be elected annually by the electors of said district, at the annual election held for the election of city officers for the city of Grand Forks, and for the purpose of this act each ward of the city of Grand Forks shall elect one member of said board, and all that portion of said independent school district situate outside of the city limits shall elect one member of said board.

§ 3. TERM OF OFFICE.] The persons hereinafter appointed

from wards numbered one, three, five, and outside limits, shall hold their office until the city election in 1881; and those persons hereinafter appointed from the second, fourth and sixth wards of said city shall hold their office until the city election in the spring of 1882; and when the members are hereafter elected as provided for in this section, they shall be elected for two years or until their successors are elected and qualified.

§ 4. VACANCIES—HOW FILLED.] If any vacancy should occur in said board for any cause the remaining members of said board shall fill such vacancy by appointment until the next annual election, and at such election a new member shall be elected to fill the unexpired term only.

§ 5. STYLE AND POWERS OF BOARD.] The board of education shall be a body corporate in relation to all the powers and duties conferred upon them by this act, to be styled "The Board of Education of Independent School District Number One, Grand Forks county," and as such shall have the power to sue and be sued, to contract and be contracted with, and shall possess all the powers usual and incident to bodies corporate, and as shall be herein given, and shall procure and keep a common seal. At each annual meeting of the board the members thereof shall elect one of their number as president of said board, and whenever he shall be absent a president *pro tempore* shall be appointed by them.

§ 6. RESPONSIBILITY OF BOARD ] The members of the board shall receive no compensation, nor shall be interested directly or indirectly in any contract for building or making any improvement or repairs provided for by this act. They shall have the care and custody of all the public property in said district pertaining to school purposes, and the general management and control of all school matters.

§ 7. MEETINGS OF BOARD.] The annual meeting of said board shall be held on the first Tuesday after the annual election in each year. The board shall also meet for the transaction of business as often as once in each month, and may adjourn for any shorter term. Special meetings may be called by the president, or in case of his absence or inability to act, by any three members of the board, as often as necessary, by giving a personal notice to each member of the board, or by causing

a written or printed notice to be left at his last place of residence, at least forty-eight hours before the hour for such special meeting.

§ 8. SECRETARY—HIS DUTIES.] The said board shall appoint a secretary who shall hold his office during the pleasure of the board, and whose compensation shall be fixed by the board. The said secretary shall keep a record of the proceedings of the board, and perform such other duties as the board may prescribe. The said record or transcript thereof, certified by the secretary and attested by the seal of the board shall be received in all courts as *prima facie* evidence of the facts therein set forth, and such records and all books, accounts, vouchers and papers of said board shall at all times be subject to the inspection of the electors or any committee thereof or any taxpayer of said district. For the purposes of economy the said board, if they deem it advisable, may appoint one of their own number secretary.

§ 9. POWERS OF BOARD.] The said board of education of said district shall have power and it shall be their duty to levy and raise from time to time by tax such sums as may be determined by said board of education to be necessary and proper for any or all of the following purposes:

1. To purchase, exchange, lease or improve sites for school houses.
2. To build, purchase, lease, enlarge, alter, improve and repair school houses and their outhouses and appurtenances.
3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, but the powers herein granted shall not be deemed to authorize the furnishing with class or text books any scholar whose parents or guardians shall be able to furnish the same.
4. To procure fuel and defray the contingent expenses of the board, including the compensation of the secretary.
5. To pay teachers wages after the application of public moneys, which may by law be appropriated and provided for that purpose.

§ 10 COLLECTION OF TAX.] The tax so to be levied as aforesaid and collected by virtue of this act, shall be collected in the same manner as other county taxes, and for that purpose

the said board of education shall have power to levy and cause to be collected such taxes as are herein authorized, and shall cause the rate for each purpose to be certified by the secretary to the county clerk in the time to be added to and put upon the annual tax list of the county; and it shall be the duty of the county clerk to calculate and extend upon the annual assessment roll and tax list such tax so levied by said board, and such tax shall be collected as other county taxes are collected.

§ 11. AMOUNT RAISED TO BE LIMITED.] The amount raised for teachers' wages and contingent expenses shall be only such as together with the public money, coming to said district from the territorial and county fund, and other sources, shall be sufficient to maintain efficient and proper schools for the children in said district, nor shall the tax for the purchasing, leasing or improving sites, and the building, purchasing, leasing, enlarging, altering or repairing of school houses, exceed in any one year two cents on the dollar of valuation of the taxable property of said district, and the same board of education are authorized and directed, when necessary, to borrow in anticipation the amount of the taxes so to be raised, levied and collected as aforesaid.

§ 12. AUTHORITY GIVEN TO ISSUE BONDS.] The board of education of said district are authorized and empowered and it shall be their duty, whenever the said board shall deem it necessary, in order to an efficient organization and establishment of schools in said district, and when the taxes authorized by this act shall not be sufficient, or shall be deemed by said board burdensome upon the taxpayers of said district, from time to time to issue the bonds of said district in denominations of not less than one hundred dollars, payable ten years after date and bearing interest at the rate not to exceed ten per centum per annum, payable semi-annually on the first days of January and July, and upon their face to show they are issued for school purposes, and cause the same to be sold and negotiated at not less than par value, and the money realized therefrom deposited with the city treasurer to the credit of the said board of education. And when any bonds shall be so negotiated it shall be the duty of the said board of education of said district to provide by tax for the payment of

the principal and interest of said bonds: *Provided, however,* That at no time shall the aggregate amount of bonds issued under the provisions of this act exceed twenty thousand dollars.

§ 13. **MONEYS OF DISTRICT TO BE PAID TO CITY TREASURER.]** All moneys to be raised pursuant to the provisions of this act, and all school moneys which shall by law be appropriated to or provided for said district shall be paid over to the treasurer of the city of Grand Forks, and the county treasurer of Grand Forks county shall from time to time as he shall receive the county school funds, and at least once in each month on the first Monday thereof, pay over to said city treasurer the proportion thereof belonging to the said district, and for that purpose said board shall have power to cause all needful steps to be taken, including census reports, or other acts or things, to enable said board to receive the school moneys belonging to said district as full and completely as though said district formed one of the school districts of said Grand Forks county.

§ 14. **BOND OF TREASURER.]** The treasurer of said city shall give such bonds to such board of education in such sums and with such conditions and sureties as they shall from time to time require, in order to insure the safe keeping of the school funds, which shall be in addition to his other bonds; and the said treasurer, and his sureties upon such bond, shall be accountable to the board for the school moneys that come into his hands; and in case of failure of such treasurer to give such bonds when required thereto by such board, within ten days thereafter such treasurer's office shall become vacant, and the city council of said city shall appoint another person in his place.

§ 15. **SCHOOL FUNDS.]** All moneys required to be raised by virtue of this act shall be paid in cash, or in the warrants hereinafter provided, drawn on the school funds only, and such moneys and all moneys received by said district for the use of the common schools therein, shall be deposited for safe keeping thereof with the treasurer of said city to the credit of the board of education, and shall be by him safely kept separate and apart from any other funds of said city, until drawn from said treasury as herein provided. The

treasurer shall pay out the moneys authorized by this act, to be received by him upon the warrants drawn by the president, countersigned by the secretary and attested by the seal of said board of education.

§ 16. POWERS OF BOARD.] The said board shall have power to and it shall be their duty:

1. To organize and establish such and so many schools in said district as they shall deem requisite and expedient, and to change and discontinue the same.

2. To purchase, sell, exchange and hire school houses and rooms, lots or sites, for school houses, and to fence and improve them as they may deem proper.

3. Upon such lots and upon such sites as now are owned by school district number one, to build, enlarge, alter, improve and repair school houses, outhouses and appurtenances as they may deem advisable.

4. To purchase, sell, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for schools.

5. To have the custody and safe keeping of the school houses, outhouses, books, furniture and appurtenances and to see that the ordinances of the city council in relation thereto are observed.

6. To contract with, license and employ all teachers in said schools, and at their pleasure to remove them.

7. To pay the wages of such teachers out of the moneys appropriated and provided by law for the support of common schools in said district, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised by this act.

8. To defray the necessary and contingent expenses of the board, including the compensation of the secretary.

9. To have in all respects the superintendence, supervision and management of the common schools of said district, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, grading, government and instruction, for the reception of pupils and their transfer from one school to another, and generally for their good order, prosperity and utility.

10. To prepare and report to the city council of the city of Grand Forks such ordinances and regulations as may be necessary and proper for the protection, safe keeping, care and preservation of school houses, lots and sites, and appurtenances, and all the property belonging to the district connected with or appertaining to the schools within the city limits, and to suggest proper penalties for the violation of such ordinances and regulations; and annually on or before the first Monday in July of each year, to determine and certify to the county clerk of said Grand Forks, the rate of taxation, in their opinion, necessary and proper to be levied under the provisions of this act, for the year commencing on the first day of July thereafter, and also at any time to determine how many and what denomination of bonds shall issue and be sold to pay the extraordinary outlays required.

§ 17. VISITING SCHOOLS.] Each member of said board shall visit all the public schools in said district at least twice in each year of his official term, and the said board shall provide that each of said schools shall be visited by a committee of three or more of their number at least once during said term.

§ 18. NON-RESIDENT PUPILS.] Said board of education shall have power to allow the children of persons not resident in said district, to attend the schools of said district, under the control and care of said board, upon such terms as said board shall prescribe, fixing the tuition which shall be paid therefor.

§ 19. EXPENDITURES NOT TO EXCEED MONEYS RAISED.] It shall be the duty of the board in all their expenditures and contracts to have reference to the amount of moneys which shall be subject to their order during the current year for the particular expenditures in question, and not to exceed that amount.

§ 20. TITLE TO SCHOOL HOUSES, GROUNDS, ETC.] The title of the school houses, lots, furniture, books, apparatus and appurtenances, and all other property belonging to the school district number one of Grand Forks county, and all such property in this act mentioned shall be vested in the city of Grand Forks for the use of schools, and the same while used or appropriated for school purposes shall not be levied upon or sold by virtue of any warrant or execution or other process,

nor be subject to any judgment lien, nor be subject to taxation for any purpose whatever; and the said city in its corporate capacity shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise for the use of common schools of said city, whether the same be transferred in terms to said city, by its proper style, or by designations, or to any person or persons or body for the use of said schools.

§ 21. REAL PROPERTY—TITLE HOW CONVEYED.] Whenever any real property is purchased by said board the transfer or grant and conveyance therefor shall be taken to the "city of Grand Forks for the use of schools," and whenever any sale is made by said board it shall be so resolved, which resolution shall be spread upon the record of said board, and the conveyance therefor shall be executed in the name of the city of Grand Forks, by the president of said board, attested by the secretary of said board, and under the seal thereof, and acknowledged by said president and secretary. And said president and secretary shall have full power and authority to execute conveyances upon such sale or exchange, with or without covenants of warranty on behalf of said city.

§ 22. REPORT OF CITY TREASURER.] It shall be the duty of the city treasurer, at least fifteen days before the annual election for members of said board, in each year, to prepare and report to the board of education true and correct statements of the receipts and disbursements of moneys under and in pursuance of the provisions of this act during the preceding year, which accounts shall be stated under appropriate heads:

1. The moneys raised by the board under section twelve of this act.
2. The school moneys received from the county treasurer.
3. The moneys received under section 15 of this act.
4. All other moneys received by the city treasurer, subject to the order of the board, specifying the sources from which they shall have been derived.
5. The manner in which sums of money shall have been expended, specifying the amount under each head of expenditures, and the board of trustees shall, at least one week before such election, cause the same to be published in all the

newspapers of said city which will publish the same gratuitously.

§ 23. CITY COUNCIL TO PASS CERTAIN ORDINANCES, ETC.] The city council shall have the power and it shall be their duty to pass such ordinances and regulations as the said board of education may report as necessary for the protection, preservation, safe keeping and care of the school houses, lots, sites, appurtenances and appendages, libraries, and all necessary property belonging to or connected with the schools of said city, and to impose proper penalties for the violation thereof; and all penalties shall be collected in the same manner that the penalties for the violation of city ordinances are by law collected, and when collected shall be paid to the treasurer of the city, to the credit of the said board of education, and shall be subject to their order as herein provided.

§ 24. FINES AND PENALTIES TO GO TO SCHOOL FUND.] All fines, penalties and forfeitures for the violation of any city ordinance of said city, and all fines, penalties and forfeitures for any criminal offense committed within said city shall when collected be paid by the officers receiving them into the city treasury to the credit of said board of education and subject to their order as other moneys raised pursuant to the provisions of this act.

§ 25. FORFEIT WHEN PERSON REFUSES TO SERVE AS MEMBER OF BOARD.] It shall be the duty of the clerk of said city, immediately after the election of any person as a member of said board of education, personally or in writing to notify him of his election, and if any such person shall not within ten days after receiving such notice of his election, take and subscribe the oath as herein provided, and file the same with the said clerk, the board of education may consider it as a refusal to serve and proceed to fill the vacancy occasioned by such refusal. And the person so refusing shall forfeit and pay to the city treasurer, for the benefit of the schools of said district, a penalty of fifty dollars, which may be recovered in the name of said city in a civil action.

§ 26. NAMES OF MEMBERS OF FIRST BOARD.] That John G. Hamilton from the first ward, Ed. Dow from the second ward, Donald Stewart from the third ward, Alexander Griggs from the fourth ward, Charles Freeman of the fifth ward, M. L.

McCormack from the sixth ward, and George A. Wheeler from the outside limits, are hereby appointed members of said board of education, and they shall on or before the first Tuesday in March next, qualify by taking and subscribing an oath to support the constitution of the United States, and the Organic act of this Territory, and to honestly and faithfully discharge the duties of their offices, and file the same with the city clerk; and if they shall neglect so to qualify by that time, the board of education shall proceed to fill such vacancy or vacancies by the election of suitable and proper persons as provided herein, who shall hold their office as herein provided for such persons herein appointed; and the person or persons so failing to qualify, shall forfeit and pay the penalty as prescribed in section 25, to be recovered in the manner herein prescribed.

§ 27. BOARD TO ORGANIZE AND ASSUME MANAGEMENT OF SCHOOLS.] The board so appointed or elected shall meet on the first Tuesday of March, 1881, and shall organize, and upon such organization shall at once assume the management and control of the public schools in said district, and the present school officers of the district number one shall turn over to them all moneys and other property belonging to such district; and from thence such district shall cease to exist, and all property belonging thereto shall vest in the city of Grand Forks for the use of schools under the provisions of this act: *Provided, however,* That the tax heretofore raised and voted therein and not collected, so far as the same shall have been assessed upon the property of said district, shall be collected by the proper officers as though this act had not passed, and paid over to the city treasurer for the use of said board of education, and the debts and liabilities of said district shall be assumed and paid by said district through the said board of education, the same as though they had been incurred and contracted by said board, and to that end it shall be the duty of the officers of said school district to make full, true and accurate statements of the property, finances and condition of said district to said board immediately upon their organization.

§ 28. FUNDING INDEBTEDNESS OF OLD DISTRICT.] That the outstanding indebtedness, if any, of the school district number

one, as assumed by the said board of education, as herein created, shall be funded by the said board of education by issuing bonds of denominations of one hundred or five hundred dollars, said bonds to run ten years, and to bear interest at the rate not to exceed ten per cent. per annum, payable annually, and said bonds shall be dated on the first day of July, 1881, and shall show upon their face that they are issued for school purposes. The secretary shall keep a book in which shall be recorded all bonds issued under this act, and said board of education shall levy a tax and provide for the payment of interest upon said bonds, and shall also provide for a sinking fund tax to pay said bonds at maturity, and said bonds shall be sold, and as fast as sold the money so received shall be used to pay the [in]debtedness herein mentioned.

§ 29. BOARD TO DESIGNATE CERTAIN POLLING PLACE.] The said board of education are further empowered and authorized to designate the place where the polls shall be held within said district, outside of the limits of the city of Grand Forks, and to appoint judges of election therefor, which said judges shall appoint the clerks of election; and the said judges and clerks shall make returns to the city clerk, who shall canvass the same as provided by city ordinance for the canvass of city and school officers. The compensation to be paid said judges and clerks shall be paid by the board of education out of the general school fund. The compensations for judges and clerks within the city limits shall be paid by the city council out of the city funds.

§ 30. All acts and parts of acts inconsistent 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: *Provided, nevertheless,* That the school district officers of school district number one shall continue to act as such, and said district shall continue its existence in law until the organization of said board of education as herein provided, and no longer.

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COUNCIL CHAMBER, }  
Yankton, D. T., Feb. 23, 1881. }

I hereby certify that on this 23d day of February, 1881, this act was returned to the council, the house in which it originated, without the approval

of his excellency, Governor N. G. Ordway, with his objections to this bill in writing. His objections were entered at large on the journal of the council, and 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:

E. B. DAWSON,  
*Chief Clerk of the Council.*

GEO. H. WALSH,  
*President of the Council.*

HOUSE OF REPRESENTATIVES, }  
Yankton, Feb. 23, 1881. }

I hereby certify that the within act establishing an Independent School District No. 1, of Grand Forks, D. T., was taken up by the House of Representatives on the 23d day of February, and the objections of the Governor read at length. The House then proceeded to reconsider the bill, and the question being, "Shall the bill pass, notwithstanding the objections of the governor?" the bill did pass, more than two-thirds voting in the affirmative.

Attest:

FRANK J. MEAD,  
*Chief Clerk of the House.*

J. A. HARDING,  
*Speaker of the House.*

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## CHAPTER 61.

### LAKE COUNTY.

AN ACT establishing that part of School District Number Twenty-eight of Lake County, Dakota Territory, comprising that tract of land embraced within the Corporate limits of the Town of Madison, as an independent School District, to be designated as Independent School District Number One, of Lake County, Dakota Territory.

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

§ 1. BOUNDARIES OF DISTRICT.] That all that portion of Lake county, Dakota Territory, described as follows, viz:—all that portion embraced within the corporate limits of the town of Madison, all of said land being in township number one hundred and six (106), north of range number fifty-two (52) west, shall be and is hereby constituted and established as an independent school district, to be known and designated as Independent School District Number One, of Lake county,

D. T., and a board of education is hereby established for the same.

§ 2. BOARD—HOW ELECTED.] Said board shall consist of three persons, a majority of whom shall constitute a quorum to transact business. One (1) member of said board shall be elected annually by the electors of said district, at the annual election held for the election of town officers for the town of Madison, and for the purpose of this act each district or ward of the town of Madison shall elect one member of said board.

§ 3. TERM OF OFFICE OF PERSONS APPOINTED.] The persons hereinafter appointed from districts or wards numbered one, two and three, shall hold their office until the town election in 1881. at which time a member shall be elected; members to hold their offices as follows: From the first district or ward, for one (1) year; from the second district or ward, for two (2) years; from the third district or ward, for three (3) years; and when the members are elected after the town election in 1881, as provided for in this section, they shall be elected for three years or until their successors are elected and qualified.

§ 4. VACANCIES.] If any vacancy should occur in said board for any cause the remaining members of said board shall fill such vacancy by appointment until the next annual election, and at such election a new member shall be elected to fill the unexpired term only.

§ 5. BOARD TO BE BODY CORPORATE, ETC.] The board of education shall be a body corporate in relation to all the powers and duties conferred upon them by this act, to be styled "The Board of Education of Independent School District Number One, Lake county," and as such shall have the power to sue and be sued, to contract and be contracted with, and shall possess all the powers usual and incident to bodies corporate, and as shall be herein given, and shall procure and keep a common seal. At each annual meeting of the board the members thereof shall elect one of their number as president of said board, and whenever he shall be absent a president *pro tempore* shall be appointed by them.

§ 6. RESPONSIBILITY OF BOARD ] The members of the board shall receive no compensation, nor shall be interested directly or indirectly in any contract for building, or for making any

improvement or repairs provided for by this act. They shall have the care and custody of all the public property in said district pertaining to school purposes, and the general management and control of all school matters.

§ 7. MEETINGS.] The annual meeting of said board shall be held on the first Tuesday after the annual election in each year. The board shall also meet for the transaction of business as often as once in each month, and may adjourn for any shorter term. Special meetings may be called by the president, or in case of his absence or inability to act, by any three members of the board, as often as necessary, by giving a personal notice to each member of the board, or by causing a written or printed notice to be left at his last place of residence, at least forty-eight hours before the hour for such special meeting.

§ 8. SECRETARY.] The said board shall appoint a secretary who shall hold his office during the pleasure of the board, and whose compensation shall be fixed by the board. The said secretary shall keep a record of the proceedings of the board, and perform such other duties as the board may prescribe. The said record or transcript thereof, certified by the secretary and attested by the seal of the board shall be received in all courts as *prima facie* evidence of the facts therein set forth, and such records and all books, accounts, vouchers and papers of said board shall at all times be subject to the inspection of the electors or any committee thereof or any taxpayer of said district. For the purposes of economy the said board, if they deem it advisable, may appoint one of their own number secretary.

§ 9. BOARD TO LEVY TAXES.] The said board of education of said district shall have power and it shall be their duty to levy and raise from time to time by tax such sums as may be determined by said board of education to be necessary and proper for any or all of the following purposes:

1. To purchase, sell, exchange, lease or improve sites for school houses.
2. To build, purchase, sell, lease, enlarge, alter, improve and repair school houses and their outhouses and appurtenances.

3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, but the powers herein granted shall not be deemed to authorize the furnishing with class or text books any scholar whose parents or guardians shall be able to furnish the same.

4. To procure fuel and defray the contingent expenses of the board, including the compensation of the secretary.

5. To pay teachers wages after the application of public moneys, which may by law be appropriated and provided for that purpose.

§ 10. COLLECTION OF TAXES.] The tax so to be levied as aforesaid and collected by virtue of this act, shall be collected in the same manner as other county taxes, and for that purpose the said board of education shall have power to levy and cause to be collected such taxes as are herein authorized, and shall cause the rate for each purpose to be certified by the secretary to the county clerk in time to be added to and put upon the annual tax list of the county; and it shall be the duty of the county clerk to calculate and extend upon the annual assessment roll and tax list such tax so levied by said board, and such tax shall be collected as other county taxes are collected.

§ 11. TAX NOT TO EXCEED REQUIREMENTS.] The amount raised for teachers' wages and contingent expenses shall be only such as together with the public money coming to said district from the territorial and county fund, and other sources, shall be sufficient to maintain efficient and proper schools for the children in said district, nor shall the tax for purchasing, leasing or improving sites, and the building, purchasing, leasing, enlarging, altering or repairing of school houses exceed in any one year two cents on the dollar of valuation of the taxable property of said district, and the said board of education are authorized and directed, when necessary, to borrow, in anticipation, the amount of taxes so to be raised, levied and collected as aforesaid.

§ 12. MAY ISSUE BONDS.] The board of education of said district are authorized and empowered and it shall be their duty, whenever the said board shall deem it necessary, in order to an efficient organization and establishment of schools in said district, and when the taxes authorized by this act

shall not be sufficient, or shall be deemed by said board burdensome upon the taxpayers of said district, from time to time to issue the bonds of said district, in denominations of not less than one hundred dollars, payable in not less than ten years after date, and bearing interest at the rate not to exceed eight per centum per annum, payable annually on the first day of July, and upon their face to show they are issued for school purposes, and cause the same to be sold and negotiated at not less than par value, and the money realized therefrom deposited with the town treasurer to the credit of the said board of education. And when any bonds shall be so negotiated, it shall be the duty of the said board of education of said district to provide by tax for the payment of the principal and interest of said bonds: *Provided, however,* That at no time shall the aggregate amount of bonds issued under the provisions of this act exceed ten thousand dollars.

§ 13. CUSTODY OF MONEYS.] All moneys to be raised pursuant to the provisions of this act, and all school moneys which shall by law be appropriated to or provided for said district shall be paid over to the treasurer of the town of Madison, and the county treasurer of Lake county shall from time to time, as he shall receive the county school funds, and at least once in each month on the first Monday thereof, pay over to said town treasurer the proportion thereof belonging to the said district, and for that purpose said board shall have power to cause all needful steps to be taken, including census reports, or other acts or things, to enable said board to receive the school moneys belonging to said district as fully and completely as though said district formed one of the school districts of said Lake county.

§ 14. BONDS OF TREASURER.] The treasurer of said town shall give such bonds to such board of education, in such sums and with such conditions and sureties as they shall from time to time require, in order to insure the safe keeping of the school funds, which shall be in addition to his other bonds; and the said treasurer, and his sureties upon such bond, shall be accountable to the board for the school moneys that come into his hands, and in case of a failure of such treasurer to give such bonds when required thereto by such board, within ten days thereafter such treasurer's office shall become vacant,

and the trustees of said town shall appoint another person in his place.

§ 15. CONCERNING FUNDS.] All moneys required to be raised by virtue of this act shall be paid in cash, or in the warrants hereinafter provided, drawn on the school funds only, and such moneys, and all moneys, received by said district for the use of the common schools therein, shall be deposited for the safe keeping thereof with the treasurer of said town, to the credit of the board of education, and shall be by him safely kept separate and apart from any other funds of said town until drawn from said treasury as herein provided. The treasurer shall pay out the moneys authorized by this act, to be received by him, upon warrants drawn by the president, countersigned by the secretary, and attested by the seal of said board of education.

§ 16. POWERS OF BOARD.] The said board shall have power to, and it shall be their duty:

1. To organize and establish such and so many schools in said district as they shall deem requisite and expedient, and to change and discontinue the same.
2. To purchase, sell, exchange and hire school houses and rooms, lots or sites for school houses, and to fence and improve them as they may deem proper.
3. Upon such lots and upon such sites as now are owned by school district number twenty-eight, or upon such lots or sites as may hereafter be purchased by said Independent School District Number One (1), of Lake county, D. T., to build, enlarge, alter, improve and repair school houses, out-houses and appurtenances as they may deem advisable.
4. To purchase, sell, exchange, improve and repair school house apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools.
5. To have the custody and safe keeping of the school houses, outhouses, furniture and appurtenances, and to see that the ordinances of the town trustees in relation thereto are observed.
6. To contract with, license and employ all teachers in said schools, and at their pleasure to remove them.
7. To pay the wages of such teachers out of the money appropriated and provided by law for the support of com-

mon schools in said district, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised by this act.

8. To defray the necessary and contingent expenses of the board, including the compensation of the secretary.

9. To have in all respects the superintendence, supervision and management of the common schools of said district, and from time to time to adopt, alter, modify and repeal as they may deem expedient, rules and regulations for their organization, grading, government and instruction, for the reception of pupils, and their transfer from one school to another, and generally for their good order, prosperity and utility.

10. To prepare and report to the trustees of the town of Madison such ordinances and regulations as may be necessary and proper for the protection, safe keeping, care and preservation of school houses, lots and sites, and appurtenances, and all the property belonging to the district, connected with or appertaining to the schools within the town limits, and to suggest proper penalties for the violation of such ordinances and regulations; and annually on or before the first Monday in July of each year, to determine and certify to the county clerk of said Lake county, the rate of taxation, in their opinion, necessary and proper, to be levied under the provisions of this act, for the year commencing on the first day of July thereafter, and also at any time to determine how many and what denomination of bonds shall issue and be sold to pay the extraordinary outlays required.

§ 17. VISITING SCHOOLS.] Each member of said board shall visit all the public schools in said district at least twice during each term.

§ 18. NON-RESIDENT PUPILS.] The said board of education shall have power to allow the children of persons not resident in said district to attend the schools of said district, under the control and care of said board, upon such terms as said board shall prescribe, fixing the tuition which shall be paid therefor.

§ 19. EXPENDITURES NOT TO EXCEED INCOME.] It shall be the duty of the board, in all their expenditures and contracts, to have reference to the amount of moneys which shall be sub-

ject to their order during the current year, for the particular expenditures in question, and not to exceed that amount.

§ 20. TITLE TO SCHOOL PROPERTY.] The title of the school houses, sites, lots, furniture, books, apparatus and appurtenances, and all other property belonging to the school district number one, of Lake county, and all such property in this act mentioned, shall be vested in the town of Madison for the use of schools, and the same while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution or other process, nor be subject to any judgment lien, nor be subject to taxation for any purpose whatever; and the said city, in its corporate capacity, shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise, for the use of the common schools of said city, whether the same be transferred in terms to said city by its proper style or by designations, or to any person or persons or body for the use of said schools.

§ 21. TITLES—HOW TAKEN.] Whenever any real property is purchased by said board, the transfer or grant and conveyance therefor shall be taken to the "Town of Madison for the use of schools;" and whenever any sale is made by said board, it shall be so resolved, which resolution shall be spread upon the record of said board, and the conveyance therefor shall be executed in the name of the Town of Madison, by the president of said board, attested by the secretary of said board, and under the seal thereof, and acknowledged by said president and secretary. And said president and secretary shall have full power and authority to execute conveyances upon such sale or exchange, with or without covenants of warranty on behalf of said town.

§ 22. REPORT OF TREASURER.] It shall be the duty of the town treasurer, at least fifteen days before the annual election for members of said board in each year, to prepare and report to the board of education, true and correct statements of the receipts and disbursements of moneys, under and in pursuance of the provisions of this act, during the preceding year, which accounts shall be stated under appropriate heads:

1. The moneys raised by the board under section 12 of this act.

2. The school moneys received from the county treasurer.
3. The moneys received under section 15 of this act.
4. All other moneys received by the town treasurer, subject to the order of the board, specifying the sources from which they shall have been derived.
5. The manner in which sums of money shall have been expended, specifying the amount under each head of expenditures, and the board of trustees shall, at least one week before such election, cause the same to be published in all the newspapers of said town which will publish the same gratuitously.

§ 23. TOWN TRUSTEES TO PASS CERTAIN ORDINANCES.] The town trustees shall have the power and it shall be their duty to pass such ordinances and regulations as the said board of education may report as necessary for the protection, preservation, safe keeping and care of the school houses, lots, sites, appurtenances and appendages, libraries, and all necessary property belonging to or connected with the schools of said town, and to impose proper penalties for the violation thereof; and all penalties shall be collected in the same manner that the penalties for the violation of the town ordinances are by law collected, and when collected shall be paid to the treasurer of the town to the credit of the said board of education, and shall be subject to their order as herein provided.

§ 24. FINES AND FORFEITURES.] All fines, penalties and forfeitures for the violation of any ordinance of said town, and all fines, penalties and forfeitures for any criminal offense committed within said town shall when collected be paid by the officers receiving them into the town treasury to the credit of said board of education and subject to their order as other moneys raised pursuant to the provisions of this act.

§ 25. CLERK TO NOTIFY PARTY ELECTED. FORFEIT.] It shall be the duty of the clerk of said town immediately after the election of any person as a member of said board of education, personally or in writing to notify him of his election, and if any such person shall not within ten days after receiving such notice of his election, take and subscribe the oath as herein provided, and file the same with the said clerk, the board of education may consider it as a refusal to serve and

proceed to fill the vacancy occasioned by such refusal. And the person so refusing shall forfeit and pay to the town treasurer, for the benefit of the schools of said district, a penalty of fifty dollars, which may be recovered in the name of said town in a civil action.

§ 26. WHO TO COMPOSE FIRST BOARD.] That Philip H. Harth, from the first district or ward; William McCollister, from the second district or ward; Alexander McKay, from the third district or ward, are hereby appointed members of said board of education, and they shall on or before the third Tuesday in March next, qualify by taking and subscribing an oath to support the constitution of the United States, and the Organic act of this Territory, and to honestly and faithfully discharge the duties of their office, and file the same with the town clerk; and if they shall neglect so to qualify by that time, the board of education shall proceed to fill such vacancy or vacancies by the election of suitable and proper persons as provided herein, who shall hold their office as herein provided for such persons herein appointed; and the person or persons so failing to qualify shall forfeit and pay the penalty as prescribed in section 25, to be recovered in the manner herein prescribed.

§ 27. BOARD TO ORGANIZE AND ASSUME MANAGEMENT OF SCHOOLS.] The board so appointed or elected shall meet on the third Tuesday of March, 1881, and shall organize, and upon such organization shall at once assume the management and control of the public schools in said district, and the present school officers of the district number twenty-eight shall turn over to them all moneys and other property, including school house, belonging to such district; and from thence such district shall cease to exist, and all property belonging thereto shall vest in the town of Madison for the use of schools under the provisions of this act: *Provided, however,* That the tax heretofore raised and voted therein and not collected, so far as the same shall have been assessed upon the property of said district, shall be collected by the proper officers as though this act had not passed, and paid over to the town treasurer for the use of said board of education, and the debts and liabilities of said district number twenty-eight shall be assumed and paid by said Independent District Number One

(1), through the said board of education, the same as though they had been incurred and contracted by said board, and to that end it shall be the duty of the officers of said school district to make full, true and accurate statements of the property, finances and condition of said district to said board immediately upon their organization.

§ 28. OUTSTANDING INDEBTEDNESS OF OLD DISTRICT TO BE FUNDED.] That the outstanding indebtedness, if any, of the school district number twenty-eight, as assumed by the said board of education of Independent School District Number One, of Lake county, D. T., as herein created, shall be funded by the said board of education by issuing bonds of denominations of fifty to two hundred dollars, said bonds to run ten years, and to bear interest at the rate of eight per cent. per annum, payable annually, and said bonds shall be dated on the first day of July, 1881, and shall show upon their face that they are issued for school purposes. The secretary shall keep a book in which shall be recorded all bonds issued under this act, and said board of education shall levy a tax and provide for the payment of interest upon said bonds, and shall also provide for a sinking fund tax to pay said bonds at maturity, and said bonds shall be sold, and as fast as sold the money so received shall be used to pay the indebtedness herein mentioned.

§ 29. BONDS NOT AUTHORIZED UNLESS SUBMITTED TO VOTE.] Nothing in this act shall be so construed as to authorize the board of education of Independent School District No. 1, Lake county, D. T., to issue bonds of said district without first having been authorized so to do by a majority of the voters of said district present and voting at any annual or special election of said district.

§ 30. All acts and parts of acts inconsistent 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: *Provided, nevertheless,* That the school district officers of school district number twenty-eight shall continue to act as such, and said district shall continue its existence in law until the organization of said board of education as herein provided, and no longer.

Approved, March 5, 1881.

## CHAPTER 62.

## MOODY COUNTY.

AN ACT establishing a portion of School District Number One, of Moody County, Dakota Territory, as an Independent School District, to be designated as Independent School District Number One, of Moody County, Dakota Territory.

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

§ 1. BOUNDARIES OF DISTRICT.] That all that portion of Moody county, Dakota Territory, described as follows, viz:— all that portion embraced within the limits of the town of Egan, together with the west half of section seventeen (17), and the west half of sections five (5) and eight (8), in township number one hundred and six (106), north of range forty-eight (48) west, and the north half of section thirty-one (31), and southwest quarter of section thirty-two (32), in township one hundred and seven (107), north of range number forty-eight (48) west, shall be and is hereby constituted and established as an independent school district, to be known and designated as Independent School District Number One, of Moody county, D. T., and a board of education is hereby established for the same.

§ 2. BOARD OF EDUCATION, NUMBERS, ETC.] Said board shall consist of five persons, a majority of whom shall constitute a quorum to transact business. Two (2) members of said board shall be elected annually by the electors of said district, at the annual election held for the election of town officers for the town of Egan.

§ 3. TERM OF OFFICE.] The persons hereinafter appointed from said town shall hold their office until the town election in 1881, and when the members are hereafter elected as provided for in this section, they shall be elected for two years or until their successors are elected and qualified.

§ 4. VACANCIES.] If any vacancy should occur in said board for any cause the remaining members of said board shall fill such vacancy by appointment until the next annual election, and at such election a new member shall be elected to fill the unexpired term only.

§ 5. BODY CORPORATE, ETC.] The board of education shall be a body corporate in relation to all the powers and duties conferred upon them by this act, to be styled "The Board of Education of Independent School District Number One, Moody county," and as such shall have the power to sue and be sued, to contract and be contracted with, and shall possess all the powers usual and incident to bodies corporate, and as shall be herein given, and shall procure and keep a common seal. At each annual meeting of the board the members thereof shall elect one of their number as president of said board, and whenever he shall be absent a president *pro tempore* shall be appointed by them.

§ 6. RESPONSIBILITY OF BOARD ] The members of the board shall receive no compensation, nor shall be interested directly or indirectly in any contract for building, or for making any improvement or repairs provided for by this act. They shall have the care and custody of all the public property in said district pertaining to school purposes, and the general management and control of all school matters.

§ 7. MEETINGS OF BOARD.] The annual meeting of said board shall be held on the first Tuesday after the annual election in each year. The board shall also meet for the transaction of business as often as once in each month, and may adjourn for any shorter term. Special meetings may be called by the president, or in case of his absence or inability to act, by any three members of the board, as often as necessary, by giving a personal notice to each member of the board, or by causing a written or printed notice to be left at his last place of residence, at least forty-eight hours before the hour for such special meeting.

§ 8. SECRETARY.] The said board shall appoint a secretary who shall hold his office during the pleasure of the board, and whose compensation shall be fixed by the board. The said secretary shall keep a record of the proceedings of the board, and perform such other duties as the board may prescribe. The said record or transcript thereof, certified by the secretary and attested by the seal of the board shall be received in all courts as *prima facie* evidence of the facts therein set forth, and such records and all books, accounts, vouchers and papers of said board shall at all times be sub-

ject to the inspection of the electors or any committee thereof or any taxpayers of said district. For the purposes of economy the said board, if they deem it advisable, may appoint one of their own number secretary.

§ 9. BOARD TO LEVY CERTAIN TAXES.] The said board of education of said district shall have power and it shall be their duty to levy and raise from time to time by tax such sums as may be determined by said board of education to be necessary and proper for any or all of the following purposes:

1. To purchase, sell, exchange, lease or improve sites for school houses.

2. To build, sell, purchase, lease, enlarge, alter, improve and repair school houses and their outhouses and appurtenances.

3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, but the powers herein granted shall not be deemed to authorize the furnishing with class or text books any scholar whose parents or guardians shall be able to furnish the same.

4. To procure fuel and defray the contingent expenses of the board, including the compensation of the secretary.

5. To pay teachers wages after the application of public moneys, which may by law be appropriated and provided for that purpose.

§ 10. COLLECTING TAXES.] The tax so to be levied as aforesaid and collected by virtue of this act, shall be collected in the same manner as other county taxes, and for that purpose the said board of education shall have power to levy and cause to be collected such taxes as are herein authorized, and shall cause the rate for each purpose to be certified by the secretary to the county clerk in time to be added to and put upon the annual tax list of the county; and it shall be the duty of the county clerk to calculate and extend upon the annual assessment roll and tax list such tax so levied by said board, and such tax shall be collected as other county taxes are collected.

§ 11. LIMIT OF TAX.] The amount raised for teachers' wages and contingent expenses shall be only such as together with the public money coming to said district from the territorial

and county fund, and other sources, shall be sufficient to maintain efficient and proper schools for the children in said district, nor shall the tax for purchasing, leasing or improving sites, and the building, purchasing, leasing, enlarging, altering or repairing of school houses exceed in any one year two cents on the dollar of valuation of the taxable property of said district, and the said board of education are authorized and directed, when necessary, to borrow, in anticipation, the amount of taxes so to be raised, levied and collected as aforesaid.

§ 12. MAY ISSUE BONDS.] The board of education of said district are authorized and empowered and it shall be their duty, whenever the said board shall deem it necessary, in order to an efficient organization and establishment of schools in said district, and when the taxes authorized by this act shall not be sufficient, or shall be deemed by said board burdensome upon the taxpayers of said district, from time to time to issue the bonds of said district, in denominations of not less than one hundred dollars, payable not to exceed twenty years after date, and bearing interest at the rate not to exceed eight per centum per annum, payable annually on the first day of January in each year, and upon their face to show they are issued for school purposes, and cause the same to be sold and negotiated at not less than par value, and the money realized therefrom deposited with the city treasurer to the credit of the said board of education. And when any bonds shall be so negotiated, it shall be the duty of the said board of education of said district to provide by tax for the payment of the principal and interest of said bonds: *Provided, however,* That at no time shall the aggregate amount of bonds issued under the provisions of this act exceed eight thousand dollars.

§ 13. CUSTODY OF SCHOOL FUNDS.] All moneys to be raised pursuant to the provisions of this act, and all school moneys which shall by law be appropriated to or provided for said district shall be paid over to the treasurer of the town of Egan, and the county treasurer of Moody county shall from time to time, as he shall receive the county school funds, and at least once in each month on the first Monday thereof, pay over to said town treasurer the proportion thereof belonging to the said district, and for that purpose said board shall have power

to cause all needful steps to be taken, including census reports, or other acts or things, to enable said board to receive the school moneys belonging to said district as fully and completely as though said district formed one of the school districts of said Moody county.

§ 14. BONDS OF TOWN TREASURER.] The treasurer of said town shall give such bonds to such board of education, in such sums and with such conditions and sureties as they shall from time to time require, in order to insure the safe keeping of the school funds, which shall be in addition to his other bonds; and the said treasurer, and his sureties upon such bond, shall be accountable to the board for the school moneys that come into his hands, and in case of a failure of such treasurer to give such bonds when required thereto by such board, within ten days thereafter, such treasurer's office shall become vacant and the town council shall appoint another person in his place.

§ 15. SCHOOL FUNDS.] All moneys required to be raised by virtue of this act shall be paid in cash, or in the warrants hereinafter provided, drawn on the school funds only, and such moneys, and all moneys, received by said district for the use of the common schools therein, shall be deposited for the safe keeping thereof with the treasurer of said town, to the credit of the board of education, and shall be by him safely kept separate and apart from any other funds of said town until drawn from said treasury as herein provided. The treasurer shall pay out the moneys authorized by this act, to be received by him, upon warrants drawn by the president, countersigned by the secretary, and attested by the seal of said board of education.

§ 16. POWERS OF BOARD.] The said board shall have power to, and it shall be their duty:

1. To organize and establish such and so many schools in said district as they shall deem requisite and expedient, and to change and discontinue the same.

2. To purchase, sell, exchange and hire school houses and rooms, lots or sites for school houses, and to fence and improve them as they may deem proper.

3. Upon such lots and upon such sites as now are or will hereafter be owned by school district number one, to build, enlarge, alter, improve and repair school houses, outhouses and appurtenances as they may deem advisable.

4. To purchase, sell, exchange, improve and repair school house apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools.

5. To have the custody and safe keeping of the school houses, outhouses, furniture and appurtenances, and to see that the ordinances of the town council in relation thereto are observed.

6. To contract with, license and employ all teachers in said schools, and at their pleasure to remove them.

7. To pay the wages of such teachers out of the money appropriated and provided by law for the support of common schools in said district, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised by this act.

8. To defray the necessary and contingent expenses of the board, including the compensation of the secretary.

9. To have in all respects the superintendence, supervision and management of the common schools of said district, and from time to time to adopt, alter, modify and repeal as they may deem expedient, rules and regulations for their organization, grading, government and instruction, for the reception of pupils, and their transfer from one school to another, and generally for their good order, prosperity and utility.

10. To prepare and report to the town council of the town of Egan, such ordinances and regulations as may be necessary and proper for the protection, safe keeping, care and preservation of school houses, lots and sites, and appurtenances, and all the property belonging to the district, connected with or appertaining to the schools within the town limits, and to suggest proper penalties for the violation of such ordinances and regulations; and annually on or before the first Monday in July of each year, to determine and certify to the county clerk of said Moody county, the rate of taxation, in their opinion, necessary and proper, to be levied under the provisions of this act, for the year commencing on the first day of July thereafter, and also at any time to determine how many and what denomination of bonds shall issue and be sold to pay the extraordinary outlays required.

§ 17. VISITING SCHOOLS.] Each member of said board shall

visit all the public schools in said district at least twice in each year of his official term, and said board shall provide that each of said schools shall be visited by a committee of three or more of their number at least once during said term.

§ 18. NON-RESIDENT PUPILS.] The said board of education shall have power to allow the children of persons not resident in said district to attend the schools of said district, under the control and care of said board, upon such terms as said board shall prescribe, fixing the tuition which shall be paid therefor.

§ 19. EXPENSES NOT TO EXCEED INCOME.] It shall be the duty of the board, in all their expenditures and contracts, to have reference to the amount of moneys which shall be subject to their order during the current year, for the particular expenditures in question, and not to exceed that amount.

§ 20. TITLE TO SCHOOL PROPERTY.] The title of the school houses, sites, lots, furniture, books, apparatus and appurtenances, and all other property belonging to the school district number one, of Moody county, and all such property in this act mentioned, shall be vested in the town of Egan, for the use of schools, and the same while used or appropriated for school purposes shall not be levied upon or sold by virtue of any warrant or execution or other process, nor be subject to any judgment lien, nor be subject to taxation for any purpose whatever; and the said town, in its corporate capacity, shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise, for the use of the common schools of said town, whether the same be transferred in terms to said town by its proper style or by designations, or to any person or persons or body for the use of said schools.

§ 21. SAME.] Whenever any real property is purchased by said board, the transfer or grant and conveyance therefor shall be taken to the Town of Egan, for the use of schools; and whenever any sale is made by said board, it shall be so resolved, which resolution shall be spread upon the record of said board, and the conveyance therefor shall be executed in the name of the Town of Egan, by the president of said board, attested by the secretary of said board, and under

the seal thereof, and acknowledged by said president and secretary. And said president and secretary shall have full power and authority to execute conveyances upon such sale or exchange, with or without covenants of warranty on behalf of said town.

§ 22. TOWN TREASURER TO MAKE REPORT.] It shall be the duty of the town treasurer, at least fifteen days before the annual election for members of said board in each year, to prepare and report to the board of education, true and correct statements of the receipts and disbursements of moneys, under and in pursuance of the provisions of this act, during the preceding year, which accounts shall be stated under appropriate heads:

1. Moneys raised by the board under section 12 of this act.
2. The school moneys received from the county treasurer.
3. The moneys received under section 15 of this act.
4. All other moneys received by the town treasurer, subject to the order of the board, specifying the sources from which they shall have been derived.
5. The manner in which sums of money shall have been expended, specifying the amount under each head of expenditures, and the board of trustees shall, at least one week before each election, cause the same to be published in all the newspapers of said town which will publish the same gratuitously.

§ 23. TOWN COUNCIL TO PASS CERTAIN ORDINANCES, ETC.] The town council shall have the power and it shall be their duty to pass such ordinances and regulations as the said board of education may report as necessary for the protection, preservation, safe keeping and care of the school houses, lots, sites, appurtenances and appendages, libraries, and all necessary property belonging to or connected with the schools of said town, and to impose proper penalties for the violation thereof; and all penalties shall be collected in the same manner that the penalties for the violation of town ordinances are by law collected, and when collected shall be paid to the treasurer of the town, to the credit of the said board of education, and shall be subject to their order as herein provided.

§ 24. CLERK TO NOTIFY PARTY ELECTED.] It shall be the duty

of the clerk of said town immediately after the election of any person as a member of said board of education, personally or in writing, to notify him of his election; and if any such person shall not, within ten days after receiving such notice of his election, take and subscribe the oath as herein provided, and file the same with the said clerk, the board of education may consider it as a refusal to serve, and proceed to fill the vacancy occasioned by such refusal. And the person so refusing shall forfeit and pay to the town treasurer, for the benefit of the schools of said district, a penalty of fifty dollars, which may be recovered in the name of said town in a civil action.

§ 25. NAMES OF MEMBERS OF FIRST BOARD.] That Samuel Buck, Alfred Brown, H. A. Leinbach, Henry K. White and John Hobert are hereby appointed members of said board of education to hold their office until the general election in April, 1881, and they shall on or before the third Tuesday in March next qualify by taking and subscribing an oath to support the constitution of the United States, and the Organic act of this Territory, and to honestly and faithfully discharge the duties of their office, and file the same with the town clerk; and if they shall neglect so to qualify by that time the board of education shall proceed to fill such vacancy or vacancies by the election of suitable and proper persons as provided herein, who shall hold their office as herein provided for such persons herein appointed, and the person or persons so failing to qualify shall forfeit and pay the penalty as prescribed in section 24, to be recovered in the manner herein prescribed.

§ 26. BOARD TO ORGANIZE AND ASSUME MANAGEMENT OF SCHOOLS.] The board so appointed or elected shall meet on the third Tuesday of March, 1881, and shall organize, and upon such organization shall at once assume the management and control of the public schools in said district, and the present school officers of the district number one shall turn over to them all moneys and other property belonging to such district; and from thence such district shall cease to exist, and all property belonging thereto shall vest in the town of Egan, for the use of schools, under the provisions of this act: *Provided, however,* That the tax heretofore raised and voted therein and not collected, as far as the same shall have been

assessed upon the property of said district, shall be collected by the proper officers as though this act had not passed, and paid over to the town treasurer for the use of said board of education; and the debts and liabilities of said district shall be assumed and paid by said district, through the said board of education, the same as though they had been incurred and contracted by said board, and to that end it shall be the duty of the officers of said school district to make full, true and accurate statements of the property, finances and condition of said district to said board immediately upon their organization.

§ 27. OUTSTANDING INDEBTEDNESS OF OLD DISTRICT TO BE FUNDED.] That the outstanding indebtedness, if any, of the school district number one, as assumed by the said board of education as herein created, shall be funded by the said board of education by issuing bonds of denominations of one hundred or five hundred dollars, said bonds to run not to exceed twenty years, and to bear interest at the rate of eight per cent per annum, payable annually; and said bonds shall be dated on the 1st day of July, 1881, and shall show upon their face that they are issued for school purposes. The secretary shall keep a book in which shall be recorded all bonds issued under this act, and said board of education shall levy a tax and provide for the payment of interest upon said bonds, and shall also provide for a sinking fund tax to pay said bonds at maturity, and said bonds shall be sold at not less than their face value, and as fast as sold the money so received shall be used to pay the indebtedness herein mentioned.

§ 28. BOARD TO DESIGNATE CERTAIN VOTING PLACE.] The said board of education are further empowered and authorized to designate the place where the polls shall be held within said district, outside of the limits of the town of Egan, and to appoint judges of election therefor, which said judges shall appoint the clerks of election; and the same judges and clerks shall make returns to the town clerk, who shall canvass the same as provided by town ordinance for the canvass of town and school officers. The compensation to be paid said judges and clerks shall be paid by the board of education out of the general school fund. The compensation for judges and clerks

within the town limits shall be paid by the town council out of the town funds.

§ 29. NO BONDS TO ISSUE WITHOUT VOTE OF THE PEOPLE.] Nothing in this act shall be so construed as to authorize the board of education of Independent School District No. 1, Moody county, D. T., to issue bonds of said district without first having been authorized so to do by a majority of the voters of said district present and voting at any special or general election of said district.

§ 30. All acts and parts of acts inconsistent 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: *Provided, nevertheless,* That the school district officers of school district number one shall continue to act as such, and said district shall continue its existence in law until the organization of said board of education as herein provided, and no longer.

Approved, March 5, 1881.

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## CHAPTER 63.

### VALLEY SPRINGS.

AN ACT to establish an Independent School District in the Village of Valley Springs.

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

§ 1. BOUNDARIES OF DISTRICT.] That sections two (2), three (3), and east half of sections four (4) and five (5); all of sections nine (9), ten (10), fifteen (15) and sixteen (16), and east half of section seventeen (17), all in township one hundred and one (101) of range forty-seven (47); also sections thirty-two (32), thirty-three (33) and thirty-four (34), in township one hundred and two (102) of range forty-seven (47), so far as located in the county of Minnehaha, and Territory of Dakota,

and constituting school district No. 15, in said county, be and the same are hereby made to constitute an independent school district.

§ 2. **STYLE OF DISTRICT. DIRECTORS WHEN TO BE ELECTED, ETC.]** Said school district shall be known by the corporate name of "The Independent School District of Valley Springs," and shall in all respects be subject to the provisions of an act of the Thirteenth Legislative Assembly, in the year 1879, establishing the Independent School District of Sioux Falls, so far as the same are applicable: *Provided*, That the directors for such district shall be elected at a special election, duly called, upon the petition of a majority of the legal voters in said district, and the officers shall determine by lots who shall hold for the long term and who for the short terms of office.

§ 3. This act shall take effect and be in force from and after the date of its adoption by a majority vote of said district.

Approved, March 3, 1881.

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## Townships.

### CHAPTER 64.

#### GRAND FORKS COUNTY.

AN ACT to amend Sections Thirty-three (33), Thirty-seven (37) and Fifty (50) of Chapter Fifty-nine (59) of the Session Laws of 1879, of Dakota Territory, entitled "Townships," approved February 18, 1879.

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

§ 1. **TAX LIST.]** That sections numbered thirty-three (33), thirty-seven (37) and fifty (50) of chapter numbered fifty-nine (59) of the session laws of 1879, Dakota Territory, entitled "Townships," approved February 18, 1879, be and are hereby amended so as to read as follows, viz: "§ 33. As soon as practicable after the township taxes are levied by the board of supervisors of each township, it shall be the duty of the

township clerk to make out a tax list of his township and a duplicate thereof, in alphabetical and numerical order, as provided for county clerks in section numbered thirty-seven of the revised statutes, entitled "Revenue." The said duplicate tax list shall be delivered by said township clerk to the township treasurer of his township, on or before the first day of October following the date of entry for the current year,"

§ 2. CHANGING HIGHWAYS.] That section thirty-seven (37) of said chapter 59, be and is hereby amended so as to read as follows, viz: "§ 37. Nothing in this act contained shall be so construed as to give power to any board of supervisors or any officer of any township to vacate or change any public county highway laid out by the board of county commissioners of the county. Neither shall it be so construed as to prevent the board of county commissioners from levying a general county bridge and road tax for the purpose of building and maintaining county bridges, and for keeping said highways in proper shape for travel within respective counties: *Provided, however,* That the said board of county commissioners shall keep, lay out, and keep in proper shape all of said roads, build, maintain and keep in proper repair all of said bridges upon said public county highways, as laid out or hereafter to be laid out by them, at the expense of the county, and to be paid out of the general county, road and bridge tax. The board of supervisors have exclusive control over, and full power to locate, vacate or change any township roads within their township, other than the public county highways mentioned in this section: *Provided,* That before the said board of supervisors can change or vacate any town road so laid out by them, they must be petitioned by at least two-thirds of the property owners residing upon or affected by any such change or vacation: *Provided, however,* That said board of supervisors shall keep and lay out, build and maintain all bridges upon said township roads so laid out or hereafter to be laid out by them at the expense of the township, and to be paid out of the township, road and bridge fund."

§ 3. TREASURER TO COLLECT TAXES.] That section fifty (50) of said chapter fifty-nine (59), be and is hereby amended so as to read as follows, viz: "§ 50. The township treasurer shall

be the collector of all township taxes placed into his hands by the township clerk as specified in section thirty-three (33) of this act, and shall have the same power to enforce, and shall be governed by the same rules and regulations as county treasurers, and shall have authority in like manner to collect by distress and sale of personal property; but if the tax cannot be so collected, and becomes necessary to sell real estate, such tax shall be certified to the county treasurer, at least thirty days prior to the date of sale of real estate, for county and territorial taxes; and such county treasurer shall proceed and collect the same as directed by the statutes governing tax sales, and when so collected, the county treasurer shall pay the same over to the proper town treasurer, less his fees for collection and expense of sale as allowed by him: *Provided*, That the township treasurer shall not be allowed any further percentum than now allowed county treasurers for collecting township taxes, viz: 2 per cent: *Provided, further*, That this act shall apply only to the county of Grand Forks."

§ 4. That all acts or parts of acts inconsistent to this act are hereby repealed.

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

ENDORSED.—Received at Executive Office, February 23, at 9:00 A. 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 House 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.*

## Vacating Towns.

### CHAPTER 65.

#### CANTON.

AN ACT to vacate a certain portion of the Town of Canton, situated in the County of Lincoln and Territory of Dakota.

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

§ 1. DESCRIPTION OF TRACT VACATED.] That the following described blocks and lots situated in the aforesaid town, be and the same is declared vacated, to-wit: Block fifty-one (51), Carpenter's First Addition to Canton: also block number fifty-two (52), fifty-three, (53), fifty-four (54), fifty-five (55) and fifty six (56), and lot one (1) of Pattee's Addition to Canton.

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

Approved, March 3, 1881.

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### CHAPTER 66.

#### CANTON.

AN ACT to vacate a certain portion of Rudolph's Addition to the Town of Canton, situated in the County of Lincoln, Territory of Dakota.

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

§ 1. DESCRIPTION OF TRACT VACATED.] That the following portions of what is known as "Rudolph's Addition to Canton," be vacated, to-wit: Block one (1), two (2), three (3), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen

(16), seventeen (17), eighteen (18), twenty-five (25), twenty-six, (26), twenty-seven (27), twenty-eight (28), twenty-nine (29), thirty (30), thirty-one (31), thirty-two (32); also lots one (1), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13) and fourteen (14).

§ 2. This act to be in force from and after its passage and approval.

Approved, March 3, 1881.

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## CHAPTER 67.

### FREEDOM.

AN ACT to vacate the Townsite of Freedom, in the County of Turner.

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

§ 1. TOWNSITE VACATED.] The townsite of Freedom, in the county of Turner, as platted by Harvey Prentice, and by him filed in the office of the register of deeds of said county, on the 5th day of February, A. D. 1879, is hereby vacated.

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

Approved, March 3, 1881.

## CHAPTER 68.

## FREEMAN AND MENNO.

AN ACT to vacate certain parts of the Town Plats of the Towns of Freeman and Menno, in Hutchinson County, Dakota.

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

§ 1. DESCRIPTION OF PART VACATED.] That blocks number one, two, three, six, seven, eight, nine, thirteen, fourteen and fifteen of the town plat of Freeman, Hutchinson county, Dakota, be and the same are hereby vacated.

§ 2. That blocks number eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen of the town plat of Menno, Hutchinson county, Dakota, be and the same are hereby vacated.

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

Approved, March 3, 1881.

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CHAPTER 69.

## MADISON.

AN ACT to vacate the Town of Madison, Lake County, D. T., and the Additions thereto.

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

§ 1. TOWN AND ADDITIONS VACATED.] That all of the town of Madison, Lake county, Dakota Territory, and all of the additions thereto, the said town and additions being located and lying in lots No. 7 and 8, in southeast  $\frac{1}{4}$ , section 22, and lot No. 5 in southwest  $\frac{1}{4}$ , section 23, and north  $\frac{1}{2}$  of northeast  $\frac{1}{4}$ , section 27, all in township No. 106, north of range No. 52 west, and containing 162 87-100 acres, as platted and recorded in the office of the register of deeds of Lake county, Dakota Territory, be and the same is hereby vacated.

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

Approved, February 11, 1881.

## CHAPTER 70.

## ROCKPORT.

AN ACT to vacate a portion of Foster's Addition to the Town of Rockport, Dakota Territory.

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

§ 1. DESCRIPTION OF TRACT VACATED.] That all that part of Foster's Addition to the town of Rockport, Hanson county, Dakota Territory, lying east of the Dakota river, in section six (6), town 101 of range 58, as platted and filed in the office of register of deeds of Hanson county, Dakota Territory, be and hereby is vacated.

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

Approved, February 17, 1881.

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Wagon Bridges.

## CHAPTER 71.

## GRAND FORKS COUNTY.

AN ACT granting the right to Establish and Maintain a Bridge across the Red River, at the City of Grand Forks, County of Grand Forks and Territory of Dakota.

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

§ 1. AUTHORITY GIVEN TO ESTABLISH BRIDGE.] That Alexander Griggs, John McKelvey and Richard Bennett, their heirs, executors and assignees shall have the right for the period of ten (10) years from and after the passage of this act, for building and maintaining a wagon and foot bridge

across the Red River of the North, at the city of Grand Forks, in the county of Grand Forks and Territory of Dakota, at a point in said city limits where said persons or a majority of the same shall deem to the best interests to the traveling public: *Provided, however,* That the rights herein granted shall not exclude or prevent the city of Grand Forks, or the county of Grand Forks, at any time, from constructing or maintaining a free bridge across said river at the foot of De Mers' avenue, in said city, if the city council of said city, or the county commissioners of said county shall deem it to the best interests of the people.

§ 2. CHARACTER OF BRIDGE.] The said Alexander Griggs, John McKelvey and Richard Bennett, their heirs and assignees shall within two years after the passage of this act, construct and build across the said Red River, a good and sufficient bridge, as may be necessary for the passage of teams, horses, cattle, and foot passengers, across said river, and shall keep the same in good repair and safe condition while it shall be used.

§ 3. ARTICLES OF CORPORATION TO BE FILED.] The parties hereinbefore named shall within one year after the passage of this act, file in the office of the secretary of the Territory their articles of corporation as provided by the laws of Dakota Territory, and shall also file with the county register of deeds of said Grand Forks county a bond, with two sufficient sureties, to be approved by said register of deeds, in the penal sum of two thousand dollars, conditioned that they will faithfully fulfill all the duties imposed upon them by this act.

§ 4. RATE OF TOLLS.] The said Alexander Griggs, John McKelvey and Richard Bennett, their heirs and assigns shall have the right to charge and collect the following rates for crossing said bridge: for each foot passenger, five cents; for each horse or mule, with rider, ten cents; for each two horse, two mule or yoke of oxen with vehicle, with or without driver, twenty-five cents; for each single horse or mule with a vehicle of any kind, with or without a driver, fifteen cents; for each horse, mule or cow or other large animal not included above, five cents; for each swine or sheep or other small animal, except dog, three cents. The schedule adopted by the above mentioned parties, not in conflict with this section, shall be posted upon the bridge in a conspicuous place.

§ 5. PENALTY FOR EXCESSIVE CHARGES.] If the above parties, their heirs and assigns shall charge or exact any greater or higher rates than those above specified, they shall forfeit the sum of five dollars for each and every such offense, to be recovered by suit before any justice of the peace in the city of Grand Forks.

§ 6. FORFEIT.] If the aforementioned parties, their heirs or assigns fail to file within the time specified in the third section of this act, the bond therein required, or shall fail to build said bridge within two years from the passage of this act, they shall forfeit all the rights, privileges and benefits that might accrue to them from the passage thereof.

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

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COUNCIL CHAMBER,  
Yankton, D. T., Feb. 26, 1881. }

I hereby certify that on this day this bill was returned to the council, the house in which it originated, without the approval of his excellency, Governor N. G. Ordway, with his objections to this bill in writing. His objections were entered at large upon the journal of the council, and 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:

E. B. DAWSON,  
*Chief Clerk of the Council.*

GEO. H. WALSH,  
*President of the Council.*

HOUSE OF REPRESENTATIVES, }  
Yankton, Feb. 26, 1881. }

I hereby certify that the within bill was received from the Council, together with the Governor's objections thereto, February 26; that the objections of the Governor were read at length, and the question 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:

FRANK J. MEAD,  
*Chief Clerk of the House.*

J. A. HARDING,  
*Speaker of the House.*

## CHAPTER 72.

## MORTON COUNTY.

AN ACT granting the right to Establish and Maintain a Bridge across the Big Heart river, between Mandan and Fort A. Lincoln, D. T.

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

§ 1. PARTIES GIVEN AUTHORITY TO CONSTRUCT BRIDGE.] That Daniel W. Maratta, William Harmon and Frank J. Mead, their heirs, executors, administrators and assigns shall have the right for the period of ten years from and after the passage of this act, of building and maintaining a wagon bridge across the Big Heart river, between the village of Mandan and Fort A. Lincoln, D. T.: *Provided, however,* That the village of Mandan, or the county of Morton, may at any time during the ten years above mentioned have the right to purchase said bridge and convert the same into a free bridge, said purchase to be effected upon a fair valuation, such valuation to be decided by three appraisers, who shall be disinterested parties, one of which said appraisers shall be chosen by the persons named above, and the second of said appraisers to be named by the county commissioners of Morton county, or village trustees of the village of Mandan, and the third appraiser to be named by the two so chosen, and that the purchase price which shall be so agreed upon by said appraisers shall be paid by the county or village above named, and received in good faith by the said above corporators or their assigns.

§ 2. CHARACTER OF BRIDGE.] That said Daniel W. Maratta, William Harmon and Frank J. Mead, their heirs and assigns shall within two years after the passage of this act, construct and build across the said river a good and sufficient bridge as may be necessary for the passage of teams, horses, cattle and foot passengers across said river, and shall keep the same in good repair and safe condition while it shall be used.

§ 3. BOND.] The parties hereinbefore named shall within one year after the passage of this act, file with the county clerk of said Morton county a bond, with two sufficient sure-

ties, to be approved by the county treasurer, in the penal sum of two thousand dollars, conditioned that they will faithfully fulfil all the duties imposed upon them by this act.

§ 4. TOLLS.] The said Daniel W. Maratta, William Harmon and Frank J. Mead, their heirs and assigns shall have the right to charge and collect the following rates for crossing said bridge, to-wit: For each foot passenger, five cents; for each horse or mule, with rider, ten cents; for each two horse or two mule team or yoke of oxen with vehicle of any kind, with or without driver, twenty-five cents; for each single horse or mule with a vehicle, with or without driver, fifteen cents; for each horse, mule, ox or cow, not included in the above, five cents; for each sheep or swine, three cents.

§ 5. PENALTY FOR UNLAWFUL RATES.] If the above parties, their heirs or assigns shall charge or exact any greater or higher rate than those specified, they shall forfeit the sum of five dollars for each and every such act, to be recovered by suit before any justice of the peace in the village of Mandan or county of Morton.

§ 6. PENALTY FOR FAILURE TO FILE BOND.] If the above parties fail to file within the time specified in the third section of this act, the bond therein required, or shall fail to build said bridge within two years from the passage of this act, they shall forfeit all the rights, privileges and benefits that might accrue to them from the passage thereof.

§ 7. OTHER BRIDGES. REVENUE TO COUNTY.] Nothing in this act shall be construed to prevent the building of other bridges between the points named in this act. under the regulations herein prescribed: *And provided further*, That 10 per cent of the net income received from such bridge or bridges shall be paid into the county treasury of Morton county.

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

Approved, March 5, 1881.

## CHAPTER 73.

## MOODY COUNTY.

AN ACT providing for the Construction of four Wagon Bridges across the Big Sioux river, in Moody County, D. T.

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

§ 1. COMMISSIONERS TO CONSTRUCT FOUR BRIDGES.] That the board of county commissioners of Moody county are authorized and empowered and it is hereby made their duty under the provisions of this act to construct four bridges across the Big Sioux river, in Moody county, one of which bridges shall be located at Brookfield, and one at Flandreau, and one at a place known as the "Church Crossing," and one between ranges 48 and 49, as near as practicable, at the most suitable points, as the board of commissioners of said county of Moody may direct.

§ 2. ELECTION TO AUTHORIZE ISSUE OF BONDS.] Nothing herein contained shall be construed to authorize the issuing of such bonds unless a majority of all legal voters present and voting shall vote in favor thereof at a special, annual or general election of legal voters of said county as hereinafter provided. The county commissioners of said county of Moody are hereby authorized and have all the needful powers to call a special election of the legal voters of said Moody county, to be held in the several voting precincts of said county, at any time after the taking effect of this law; but shall first give notice of such election in the same manner as now required by law for general elections, for the purpose of voting upon the question of issuing bonds. The voting at such election shall be by printed or written ballot, with words: "For issuing bridge bonds, yes;" "For issuing bridge bonds, no." Said election shall be governed in the same manner, so far as applicable, as provided by law for conducting general elections in this Territory, and the vote of said election shall be canvassed in the same manner as provided by law for canvassing votes for county officers; and if a majority of all votes cast shall be found to be for issuing bonds, such bonds shall be issued as herein provided.

§ 3. COST.] The cost of construction of said bridges when completed shall not exceed the sum of four thousand dollars.

§ 4. LETTING CONTRACTS.] The construction of said bridges shall be let by the board of county commissioners to the lowest responsible bidder, after advertisement for public proposals for not less than four weeks in each newspaper in said county. A sufficient bond shall be required by said board from the contractor or contractors, with not less than two responsible sureties, for the construction and completion of said bridges in accordance with the plan and specifications adopted by the board of commissioners.

§ 5. ISSUE OF BONDS.] For the purpose of providing funds to pay the cost of construction of said bridges, the board of county commissioners are hereby authorized and empowered and it is made their duty to prepare and issue bonds of said county, running for a term or period of ten years, bearing interest at the rate of eight per cent per annum, payable annually on the first day of February in each year, in denominations not to exceed fifty dollars each, for a sum sufficient to pay the cost of constructing said bridges, not exceeding the sum of four thousand dollars.

§ 6. TERMS OF PAYMENT.] The board of county commissioners shall have the power to provide in the contract for the terms of payment, and the withholding from time to time such percentage from the value of the work as it progresses as shall insure a prompt compliance by the contractor with the terms of said contract, and to provide such other matters and things as shall be usually necessary and requisite with reference to such contract: *Provided, however,* That the terms of payment from time to time shall be only so fast as the work progresses, with twenty per cent. deduction thereupon to insure the fulfilment of said contract, and such payments shall be in cash and the construction of said bridges shall be at all times under the supervision and control of said board, or any agent said board may elect for the purpose.

§ 7. REDEMPTION OF BONDS.] In issuing said bonds herein provided for, the terms thereof shall provide that after the expiration of five years from the date thereof it shall be optional with the said county, at any time before they shall

become due, to redeem the same at par, and accrued interest, at the date of redemption, at such times and in such amounts as the board of county commissioners or other lawful fiscal agents of said county shall from time to time determine, and under such rules and regulations, as to notice thereof, as they may prescribe.

§ 8. BOND TAX.] The board of county commissioners shall for the year 1881, and each year thereafter, levy and collect a tax sufficient to pay the interest on said bonds promptly as it shall become due and payable, and for the payment thereof at or before maturity, as in section seven provided; and after the expiration of five years they shall levy and collect a sinking fund tax for the payment of said bonds, sufficient to redeem the same within the period of their maturity, and as fast as such sinking fund shall become available they shall redeem such bonds under the provisions of said section 7, aforesaid.

§ 9. MONEYS COLLECTED ON BOND TAX TO BE USED FOR NO OTHER PURPOSE.] The moneys levied and collected for the payment of the interest or principal of said bonds shall not be used for any other purpose, but shall be held and appropriated solely for the payment of said principal and interest under the provisions of this act.

§ 10. PENALTY FOR VIOLATION OF THIS ACT.] Any willful violation of the provisions of this act shall be deemed a misdemeanor, and a misappropriation of any of the funds provided for under the provisions of this act, including such as are to be levied and collected by taxation, or their use for any other purpose except as herein specified, or of any portion thereof, shall be and it is hereby declared to be a felony and punishable by imprisonment in the penitentiary not exceeding five years, or by fine not exceeding double the amount of such misappropriation or use, or by both such fine and imprisonment.

§ 11. This act shall take effect and be in force from and after its passage and approval, and ratified by a majority vote of the legal voters of said county of Moody.

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

Approved, March 3, 1881.

## Warrants.

### CHAPTER 74.

#### BON HOMME COUNTY.

AN ACT to amend An Act, entitled "An Act authorizing the County Commissioners of Bon Homme County, D. T., to Fund the Outstanding Indebtedness of said County."

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

§ 1. PROVISIONS OF LAW PROHIBITING ISSUE OF WARRANTS REPEALED.] That sections ten and eleven of said funding bill shall be and the same are hereby repealed.

§ 2. CERTAIN LAW TO APPLY TO BON HOMME COUNTY.] That the general statutes of the Territory of Dakota in reference to county warrants or orders, and the issue, presentation, interest and registration of the same is hereby expressly revived and made to apply to the county of Bon Homme; and it is hereby made the duty of the proper officers of said county to issue county warrants or orders to the parties entitled thereto, for all accounts heretofore duly audited and allowed which have not been paid prior to the passage of this act.

§ 3. All acts or parts of acts in conflict with this act are hereby repealed.

§ 4. This act to take effect and be in force from and after its passage and approval.

ENDORSED.—Received at Executive Office, February 7, 1881, at 2:45 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 75.

## LAWRENCE COUNTY.

AN ACT to repeal certain Sections of the Funding Act of Lawrence County.

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

§ 1. CERTAIN SECTIONS REPEALED.] Sections 10 and 11 of an act, entitled "An act authorizing the board of county commissioners of Lawrence county to fund the outstanding indebtedness thereof," and approved February 21, 1879, be and the same are hereby repealed.

§ 2. COUNTY AUTHORIZED TO ISSUE WARRANTS.] All accounts and claims against the county of Lawrence, and which shall be by law directed to be paid out of the treasury of said county, shall be presented to the county commissioners of said county who shall examine and adjust the same, and for the sums which shall be due from the county shall issue warrants of the county therefor, drawing not more than seven per cent. interest after presentation for payment, payable at the county treasurer's office, which shall be numbered and paid consecutively, and each shall specify the date of its issue, and the name of the fund on which drawn, and the person to whom payable; and corresponding thereto shall be prepared a stub for each warrant separately, and these stubs shall be carefully preserved by the county clerk: *Provided*, That no warrant or warrants shall be issued for any indebtedness incurred or contracted prior to February 1, A. D. 1881, but such indebtedness shall be paid as now provided for.

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

§ 4. This act shall take effect and be in force on and after its passage and approval.

Approved, February 26, 1881.

## CHAPTER 76.

## BROOKINGS COUNTY.

AN ACT to amend An Act, entitled An Act to Fund the Outstanding Indebtedness of the Counties of Moody, Brookings, Burleigh and Grand Forks."

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

§ 1. COUNTY AUTHORIZED TO ISSUE WARRANTS.] All that part of section eight of an act, entitled "An act to fund the outstanding indebtedness of the counties of Moody, Brookings, Burleigh and Grand Forks," which prohibits the county clerk of Brookings county from issuing warrants for accounts which have been duly audited and allowed by the board of county commissioners of said county, unless there is money in the county treasury of said county sufficient to pay the same, be and the same is hereby repealed.

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

Approved, March 3, 1881.

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