

GENERAL LAWS

AND

MEMORIALS AND RESOLUTIONS

OF THE

TERRITORY OF DAKOTA,

PASSED AT THE TENTH SESSION OF THE

LEGISLATIVE ASSEMBLY,

COMMENCED AT THE CITY OF YANKTON, DECEMBER 2d, A. D.
1872, AND CONCLUDED JANUARY 10th, 1873.

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THE LAWS
OF
DAKOTA TERRITORY.

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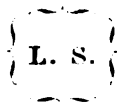
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AUTHENTICATION.

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

I HEREBY certify, that I have this day delivered to Stone & Kingsbury, Public Printers for Dakota Territory, true and correct copies of all the public and private laws, memorials and resolutions, passed and approved, during the tenth session of the Legislative Assembly of said Territory.

WITNESS my hand and seal, this fifteenth day of
January, A. D. 1873.



EDWIN S. MCCOOK.
Secretary.

YANKTON PRESS OFFICE,)
Yankton, D. T., March 12, 1873.)

WE HEREBY certify that the following Laws, Memorials and Resolutions, are true and correct copies, as given us for publication by the Secretary of the Territory, as set forth in the preceding authentication.

STONE & KINGSBURY.
Public Printers, Dakota Territory.

GENERAL LAWS.

ADULTERY.

CHAPTER 1.

AN ACT TO PUNISH ADULTERY.

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

SECTION 1. Every person who shall commit the crime of adultery, shall be punished by imprisonment in the Territorial penitentiary not exceeding five years, and be fined not exceeding five (5) hundred dollars, or either of said punishments, in the discretion of the court. Adultery, how punished.

SEC. 2. If any married man shall commit an act, or have a connection with an unmarried woman, which would constitute the crime of adultery, in case such a woman had a husband, both persons committing such act, or having such connection, shall be punished as is provided in case of adultery. Adultery defined.

SEC. 3. If any man with another man's wife, or any woman with another woman's husband, shall be found in bed together under such circumstances as to afford presumption of an illicit intention between them, both persons so found in bed as aforesaid shall be punished by imprisonment in the Territorial penitentiary not exceeding three years, or by fine not exceeding five (5) hundred dollars. Where adultery presumed to be committed.

SEC. 4. This act shall take effect and be in force from and after its passage. When to take effect.

Approved, January 9th, 1873.

AMENDMENTS AND REPEALS.

CHAPTER 2.

AN ACT TO REPEAL "AN ACT TO ESTABLISH A CODE OF CIVIL PROCEDURE," APPROVED MAY, 1862; ALSO TO AMEND "AN ACT TO SIMPLIFY AND ABRIDGE THE PRACTICE, PLEADINGS AND PROCEEDINGS OF THE COURTS OF THIS TERRITORY," PASSED AT THE SEVENTH SESSION, AND FOR OTHER PURPOSES.

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

Act repealed. SECTION 1. That "An act to Establish a Code of Civil Procedure," approved May, 1862, be, and the same is hereby repealed.

Amendments of civil code of 1867-68. SEC. 2. That section 188 of "An Act to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory," passed at the seventh session, be, and the same is hereby amended by striking out all after the word "on," in the eighth line thereof; and section 85 of said act is so amended as to allow the plaintiff in any action to file a notice of the pendency of the action as therein provided, and thereby create a lien on real property, and no attachment of real property shall be necessary, nor shall the same be valid until said notice is filed as aforesaid.

Further amendment. SEC. 3. That said act passed at the seventh session be, and the same is, hereby amended by adding after section 196 thereof, the following:

When creditor may bring an action before claim is due. 1. Where a debtor has sold, conveyed, or otherwise disposed of his property, with the fraudulent intent to cheat or defraud his creditors, or to hinder or delay them in the collection of their debts; or, 2. Is about to make sale, convey-

ance, or disposition of his property, with such fraudulent intent; or 3. Is about to move his property, or a material part thereof, with the intent, or to the effect, of cheating or defrauding his creditors, or of hindering and delaying them in the collection of their debts, a creditor may bring an action on a claim before it is due, and have an attachment against the property of the debtor.

2. The plaintiff in such action shall not have judgment on his claim, before it becomes due and the proceedings on attachment may be conducted without delay. Plaintiff shall not have judgment.

SEC. 4. That said act be, and the same is hereby further amended by adding after section 217 thereof, the following: Further amendments.

1. A motion for a new trial on a case, or exceptions, or otherwise, and an application for judgment on a special verdict or case reserved for argument or further consideration, must in the first instance be heard and decided at a general or special term, except that when exceptions are taken, the judge trying the cause may, at the trial, direct them to be heard in the first instance by the supreme court, and judgment in the meantime suspended, and in that case they must there be heard in the first instance, and judgment there given. Motion for new trial, &c., to be heard and decided, where.

2. And when upon the trial, the case presents only questions of law, the judge may direct a verdict subject to the opinion of the supreme court, and in that case the application for judgment must be made to the supreme court. When judge may direct verdict, &c.

SEC. 5. That said act be, and the same is hereby further amended by striking out the fifth, sixth and seventh lines of section 263, and substituting in lieu thereof, the following words, to-wit: "He shall receive no other fee for any services whatever in a civil action, except for copies of papers, at the rate of ten cents for every hundred words," and all acts in conflict with this provision are hereby repealed. Amendment respecting fees of clerks.

SEC. 6. That said act be, and the same is hereby further amended by adding after section 273, the following: Further amendments.

1. In cases in which the plaintiff is a non-resident of the county in which the action is to be brought, before commencing such action, the plaintiff must furnish a sufficient surety for costs. The surety must be a resident of the county where the action is to be brought, and approved by the clerk. His obligation shall be complete, simply by indorsing the summons, or signing his name on the complaint as security for Plaintiff to furnish surety.

Obligation of costs. He shall be bound for the payment of all costs, which may be adjudged against the plaintiff in the court in which the action is brought, or in any other to which it may be carried, and for costs of the plaintiff's witnesses, whether the plaintiff obtained judgment or not.

When action shall be dismissed. 2. An action in which security for costs is required by the last section, and has not been given, shall be dismissed on the motion and notice by the defendant at any proper time before judgment, unless in a reasonable time to be allowed by the court, such security for costs be given.

When plaintiff shall give security. 3. If the plaintiff in an action, after its commencement, become a non-resident of the county in which it is brought, he shall give security for the costs in the manner and under the restrictions provided in the two preceding sections.

When plaintiff to give additional security. 4. In an action in which security for costs has been given, the defendant may at any time before judgment, after reasonable notice to the plaintiff, move the court for additional security on the part of the plaintiff; and if, on such motion, the court be satisfied that the surety has removed from this Territory, or is not sufficient, the action may be dismissed, unless in a reasonable time to be fixed by the court, sufficient surety be given by the plaintiff.

When judgment for costs may be entered against surety. 5. After final judgment has been rendered in an action, in which security for costs has been given, as required by this chapter, the court, on motion of the defendant, or any other person having a right to such costs or any part thereof, after ten days' notice of such motion, may enter up judgment in the name of the defendant or his legal representatives, against the surety for costs, his executors or administrators, for the amount of the costs adjudged against the plaintiff, or so much thereof as may be unpaid. Execution may be issued on such judgment, as in other cases, for the use and benefit of the person entitled to such costs.

Execution, &c.

Section repealed. SEC. 7. That section 242, of said act be, and the same is, hereby repealed.

Further amendment. SEC. 8. That said act be, and the same is hereby further amended by adding after section 241, the following:

Lands, &c., liable on execution. 1. Lands, tenements, goods and chattels, not exempt by law, shall be subject to the payment of debts, and shall be liable to be taken on execution, and sold as hereinafter provided.

2. When two or more writs of execution against the same debtor shall be sued out during the term in which judgment was rendered, or within ten days thereafter, and when two or more writs of execution against the same debtor shall be delivered to the officer on the same day, no preference shall be given to either of such writs; but if a sufficient sum of money be not made to satisfy all executions, the amount made shall be distributed to the several creditors in proportion to the amount of their respective demands. In all other cases the writ of execution first delivered to the officer shall be first satisfied. And it shall be the duty of the officer to indorse on every writ of execution the time when he received the same.

Duty of officer when two or more writs are delivered on same day.

In other cases, what preferred.

3. The officer to whom a writ of execution is delivered, shall proceed immediately to levy the same upon the goods and chattels of the debtor; but if no goods and chattels can be found, the officer shall indorse on the writ of execution, "no goods," and forthwith levy the writ of execution upon the lands and tenements of the debtor, which may be liable to satisfy the judgment.

Duty of officer on receiving writ.

4. If the officer, by virtue of any writ of execution, issued from any court of record in this Territory, shall levy the same on any goods and chattels claimed by any person other than the defendant, it shall be the duty of said officer forthwith to give notice in writing to some justice of the peace in the county, in which shall be set forth the names of the plaintiff and defendant, together with the name of the claimant; and at the same time he shall furnish the said justice of the peace with a schedule of the property claimed. And it shall be the duty of such justice of the peace, immediately upon the receipt of such notice and schedule, to make an entry of the same upon his docket, and issue a writ of summons, directed to the sheriff, or any constable of the county, commanding him to summon five disinterested men, having the qualifications of electors, who shall be named in said summons, to appear before him, the said justice, at the time and place therein mentioned, which time shall not be more than three days after the date of said writ, to try and determine the right of the claimant to the property in controversy. And it shall be the duty of the claimant to give two days' notice, in writing, to the plaintiff or other party for whose benefit such execution was issued and levied as aforesaid, his agent or attor-

When officer levys on goods claimed by other person than defendant, his duty.

Duty of justice.

Duty of claimant.

ney, if within the county, of the time and place of such trial; and he shall, moreover, prove to the satisfaction of said justice that such notice was given, or that the same could not be given by reason of the absence of the party, his agent or attorney.

Jury, how sworn and their duty.

Duty of justice.

Allowance of jurors.

Fees of justice.

Duty of officer in certain cases.

When claimant to give surety.

5. The jury summoned as aforesaid, shall be sworn to try and determine the right of the claimant to the property in controversy, and a true verdict to give, according to the evidence. If the jury shall find the right to said goods and chattels, or any part thereof, to be in the claimant, they shall also find the value thereof, and the justice shall render judgment upon such finding of the jury, for the claimant, that he recover his costs against the plaintiff in execution, or other party to the same, for whose benefit the execution issued, and also that he have restitution of said goods and chattels, or any part thereof, according to the finding of the jury. But if the right of the said goods and chattels, and every part thereof, shall not be in the claimant according to the finding of said jury, then the said justice shall render judgment on such finding, in favor of the plaintiff in execution, or other party for whose benefit the same was issued and levied, against said claimant for costs, and award execution thereon. Such justice of peace, in the taxation of costs accruing by reason of such claim and trial, shall allow each juror summoned and sworn, the sum of fifty cents; and for the sheriff, constable, or other officer, and witnesses, and for himself, he shall tax such fees as are allowed by law, to each, respectively, for like services rendered in other cases. Such judgment for the claimant (unless an undertaking shall be executed, as provided in the next section), shall be a justification of the officer in returning "no goods" to the writ of execution, by virtue of which the levy has been made, as to such part of the goods and chattels as were found to belong to such claimant.

6. If the jury shall find the property or any part thereof to be in the claimant, and the plaintiff in execution shall, at any time within three days after such trial, tender to the sheriff or other officer having such property in custody on execution, an undertaking with good and sufficient sureties, payable to such claimant, [in] double the amount of the value of such property as assessed by the jury, to the effect that they will pay all damages sustained by reason of the detention or sale of such

property, then the sheriff or other officer shall deliver said undertaking to claimant, and proceed to sell such property, as if no such trial of the right of property had taken place, and shall not be liable to the claimant therefor.

SEC. 7. This act and the amendments herein made shall not in any particular change the exemption laws as they now exist in this Territory. This act not to effect exemption laws.

1. The officer who levies upon goods and chattels, by virtue of an execution issued by a court of record, before he proceeds to sell the same, shall cause public notice to be given of the time and place of sale, for at least ten days before the day of sale. The notice shall be given by advertisement, published in some newspaper printed in the county, or, in case no newspaper be printed therein, by setting up advertisements in five public places in the county; two advertisements shall be put up in the precinct where the sale is to be held. And where goods and chattels levied upon cannot be sold for want of bidders, the officer making such return shall annex to the execution a true and perfect inventory of such goods and chattels; and the plaintiff in such execution may thereupon sue out another writ of execution directing the sale of the property levied upon as aforesaid; but such goods and chattels shall not be sold, unless the time and place of sale be advertised, as hereinbefore provided. When officer shall give public notice.

2. When any writ shall issue, directing the sale of property previously taken in execution, the officer issuing said writ, at the request of the person entitled to the benefit thereof, his agent or attorney, add thereto a command to the officer to whom such writ shall be directed, that, if the property remaining in his hands, not sold, shall, in his opinion, be insufficient to satisfy the judgment, he shall levy the same upon the lands and tenements, goods and chattels, or either, as the law shall permit, being the property of the judgment debtor, sufficient to satisfy the debt. Where sale cannot be made for want of bidders.

3. Lands and tenements, taken in execution, shall not be sold, until the officer cause public notice of the time and place of sale to be given, for at least thirty days before the day of sale, by advertisement in some weekly newspaper printed in the county, or, in case no newspaper be printed in the county, in some newspaper in general circulation therein, and by putting up an advertisement upon the court house door, if When officer shall levy on lands &c.

Lands &c. not to be sold, until public notice be given.

Notice. how given.

there be a court house in the county, and in five other public places in the county. All sales made without such advertisement, shall be set aside, on motion, by the court to which the execution is returnable.

When court shall order officer to make deed.

4. If the court, upon the return of any writ of execution, for the satisfaction of which any lands and tenements have been sold, shall, after having carefully examined the proceedings of the officer, be satisfied that the sale has, in all respects, been made in conformity to the provisions of this title, the court shall direct the clerk to make an entry on the journal, that the court is satisfied of the legality of such sale, and an order that the officer make to the purchaser a deed of such land and tenements; and the officer on making such sale, may retain the purchase money in his hands, until the court shall have examined his proceedings, as aforesaid, when he shall pay the same to the person entitled thereto agreeable to the order of the court.

Officer shall make deed.

5. The sheriff or other officer, who, upon such writ or writs of execution, shall sell the said lands and tenements, or any part thereof, shall make to the purchaser or purchasers thereof, as good and sufficient a deed of conveyance of lands and tenements sold, as the person or persons, against whom such writ or writs of execution were issued, could have made of the same, at, or any time after, they became liable to the judgment. The deed shall be sufficient evidence of the legality of such sale, and the proceedings therein, until the contrary be proved, and shall vest in the purchaser as good and as perfect an estate in the premises therein mentioned, as was vested in the party at or after the time when such lands and tenements became liable to the satisfaction of the judgment. And such deed of conveyance, to be made by the sheriff or other officer, shall recite the execution or executions, or the substance thereof, and the names of the parties, the amount and date of term of rendition of such judgment, by virtue whereof the said lands and tenements were sold as aforesaid; and shall be executed, acknowledged and recorded, as is or may be provided by law, to perfect the conveyance of real estate in other cases.

Deed to be evidence of legality of sale.

What deed shall recite.

When officer may refuse to publish notice.

6. The officer who levies upon such goods and chattels, or lands and tenements, or who is charged with the duty of selling the same by virtue of any writ or execution, may refuse to publish a notice of the sale thereof by advertisement in a

newspaper, until the party for whose benefit such execution is issued, his agent or attorney, shall advance to such officer so much money as will be sufficient to discharge the fees of the printer for publishing such notice.

7. Before any officer shall be excused from giving the notification mentioned in the last section, he shall demand of the party for whose benefit the execution was issued, his agent or attorney (provided either of them reside in the county), the fees in said section specified. Officer to make demand before being excused.

8. All sales of lands or tenements under execution, shall be held at the court house, if there be one in the county in which such lands and tenements are situated, and if there be no court house, then at the door of the house in which the district court was last held, and if there be no court house, and no district court has been held in the county, then at such place as the sheriff shall designate in his notice of sale. No sheriff, or other officer, making the sale of property, either personal or real, shall either directly or indirectly purchase the same; and every purchase so made, shall be considered fraudulent and void. Where sales to be held. Officer not allowed to be purchaser.

9. If lands and tenements, levied on as aforesaid, are not sold upon one execution, other executions may be issued to sell the lands so levied upon. When other executions may be issued.

10. In all cases, when two or more executions shall be put into the hands of any sheriff, or other officer, and it shall be necessary to levy on real estate to satisfy the same, and either of the judgment creditors in whose favor one or more of said executions is issued, shall require the sheriff, or other officer, to make a separate levy to satisfy his execution or executions, it shall be the duty of the sheriff, or other officer, to levy said executions, or so many thereof as may be required, on separate parcels of real property of the judgment debtor or debtors, whose execution may, by the provisions of this chapter, be entitled to a preference, the choice of such part of the real property of the judgment debtor or debtors, as will be sufficient to satisfy the same. When officer shall make a separate levy.

11. If the term of service of the sheriff, or other officer, who has made, or shall hereafter make sale of any lands and tenements, shall expire; or if the sheriff or other officer shall be absent, or be rendered unable, by death, or otherwise, to make a deed of conveyance of the same, any succeeding sheriff or When term of office shall expire; who shall make deed.

other officer, on receiving a certificate from the court from which the execution was issued for the sale of said lands and tenements, signed by the clerk, by order of said court, setting forth that sufficient proof has been made to the court, that such sale was fairly and legally made, and on tender of the purchase money, or if the same or any part thereof, be paid, then, on proof of such payment and tender of the balance, if any, may execute to the said purchaser or purchasers, or his or their legal representatives, a deed of conveyance of said lands and tenements so sold. Such deed shall be as good and valid in law, and have the same effect, as if the sheriff or other officer who made the sale, had executed the same.

When a balance shall remain in hands of officer: how disposed of.

12. If on any sale made as aforesaid, there shall be in the hands of the sheriff or other officer more money than is sufficient to satisfy the writ or writs of execution, with interests and costs, the sheriff or other officer shall, on demand, pay the balance to the defendant in execution, or his legal representatives.

When judgment shall be reversed, title not to be affected.

13. If any judgment or judgments, in satisfaction of which any lands or tenements are sold, shall at any time thereafter be reversed, such reversal shall not defeat or affect the title of the purchaser or purchasers; but in such case, restitution shall be made, by the judgment creditor, of the money for which such lands and tenements were sold, with lawful interest from the day of sale.

Principal debtor first liable on judgment.

14. In all cases where judgment is rendered in any court of record within this Territory, upon any other instrument in writing, in which two or more persons are jointly and severally bound, and it shall be made to appear to the court, by parol or other testimony, that one or more of said persons so bound, signed the same as surety or bail for his or their co-defendant, it shall be the duty of the clerk of said court, in recording the judgment thereon, to certify which of the defendants is principal debtor, and which are sureties or bail. And execution on such judgment shall issue, commanding the sheriff or other officer to cause the money to be made of the goods and chattels, lands and tenements, of the principal debtor, but for want of sufficient property of the principal debtor, to make the same, that he cause the same to be made of the goods and chattels, lands and tenements of the surety or bail. In all cases, the property, both personal and real, of

the principal debtor, within the jurisdiction of the court, shall be exhausted before any of the property of the surety or bail shall be taken in execution.

15. If any sheriff or other officer shall refuse or neglect to execute any writ of execution to him directed, which has come to his hands, or shall neglect or refuse to sell any goods and chattels, lands and tenements, or shall neglect to return any writ of execution to the proper court, on or before the return day, thereof or shall neglect to return a just and perfect inventory of all and singular the goods and chattels by him taken in execution, unless the said sheriff or other officer shall return that he has levied and made the amount of the debt, damages and costs; or shall refuse or neglect on demand to pay over to the plaintiff, his agent or attorney of record, all moneys by him collected or received, for the use of said party, at any time after collecting or receiving the same, except as provided in a previous section; or shall neglect or refuse, on demand made by the defendant, his agent or attorney of record, to pay over all moneys by him received for any sale made, beyond what is sufficient to satisfy the writ or writs of execution, with interest and legal costs, such sheriff or other officer shall, on motion in court and two days' notice thereof in writing, be amerced in the amount of said debt, damages and costs, with ten per centum thereon, to and for the use of said plaintiff or defendant, as the case may be.

When officer shall refuse or neglect certain duties, to be amerced.

16. If any clerk of a court shall neglect or refuse, on demand made by the person entitled thereto, his agent or attorney of record, to pay over all money by him received, in his official capacity, for the use of such person, every such clerk may be amerced; and the proceedings against him and his sureties shall be the same as provided for in the foregoing section against sheriffs and their sureties.

When clerk may be amerced

17. When the cause of amercement is for refusing to pay over money collected as aforesaid, the said sheriff or other officer shall not be amerced in a greater sum than the amount so withheld, with ten per centum thereon.

When officer to be amerced ten per cent. additional.

18. When execution shall be issued in any county in this Territory, and directed to the sheriff or coroner of another county, it shall be lawful for such sheriff or coroner having the execution, after having discharged all the duties required of him by law, to inclose such execution, by mail, to the clerk

When execution issued to officer of another county; his duty.

with whom the record of judgment is filed. On proof being made by such sheriff or coroner, that the execution was mailed soon enough to have reached the said clerk within the time prescribed by law, the sheriff or coroner shall not be liable for any amercement or penalty, if it do not reach the office in due time.

Officer not to forward money by mail; except when.

19. No sheriff shall forward, by mail, any money made on any such execution, unless he shall be specially instructed to do it by the plaintiff, his agent or attorney of record. In all cases of a motion to amerce a sheriff or other officer of any county other than the one from which the execution issued, notice in writing shall be given to such officer, as hereinbefore required, by leaving it with him, or at his office, at least fifteen days before the first day of the term at which such motion shall be made, or by transmitting the notice by mail, at least sixty days prior to the first day of the term at which such motion shall be made. All amercements so procured shall be entered on the record of the court, and shall have the same force and effect as a judgment.

When sureties of officer may be made parties to judgment.

20. Each and every surety of any sheriff or other officer may be made a party to the judgment rendered as aforesaid, against the sheriff or other officer, by action, to be commenced and prosecuted as in other cases. But the goods and chattels, lands and tenements of any such surety, shall not be liable to be taken on execution, when sufficient goods and chattels, lands and tenements of the sheriff or other officer, against whom execution may be issued, can be found to satisfy the same. Nothing herein contained shall prevent either party from proceeding against such sheriff or other officer, by attachment, at his election.

Where officer may be permitted to sue out an execution.

21. In cases where a sheriff or other officer may be amerced, and shall not have collected the amount of the original judgment, he shall be permitted to sue out an execution, and collect the amount of said judgment in the name of the original plaintiff, for his own use.

Further amendment.

SEC. 9. That said act be, and the same is hereby further amended by adding after Section 320 thereof, the following:

CHAPTER—MEANS OF PRODUCING WITNESSES.

When certain officers shall issue subpoena.

1. The clerks of the several district courts, notaries public, justices of the peace, attorneys and judges of courts, shall, on

the application of any person having a cause or any matter pending in court, issue a subpoena for witnesses, inserting all the names required by the applicant in one subpoena, which may be served by any person not interested in the action, or by the sheriff, coroner, or constable; but when served by any person other than a public officer, proof of service shall be shown by affidavit; but no costs of serving the same shall be allowed except when served by an officer.

2. The subpoena shall be directed to the person therein named, requiring him to attend at a particular time and place, to testify as a witness; and it may contain a clause, directing the witness to bring with him any book, writing, or other thing under his control, which he is bound by law to produce as evidence.

Subpoena,
what to contain
and how directed.

3. When the attendance of the witness before any officer, authorized to take depositions, is required, the subpoena may be issued by such officer.

What officer
may issue sub-
poena.

4. The subpoena shall be served either by reading or by copy, delivered to the witness, or left at his usual place of residence; but such copy need not contain the name of any other witness.

Subpoena,
how served.

5. A witness shall not be obliged to attend for examination on the trial of a civil action, except in the county of his residence, nor to attend to give his deposition out of the county where he resides, or where he may be when the subpoena is served upon him.

When witness
not obliged to
attend.

6. A witness may demand his traveling fees, and fee for one day's attendance, when the subpoena is served upon him, and if the same be not paid, the witness shall not be obliged to obey the subpoena. The fact of such demand and non-payment shall be stated in the return.

When witness
may demand
fees.

7. Disobedience of a subpoena, or a refusal to be sworn, or to answer as a witness, or to subscribe a deposition, when lawfully ordered, may be punished as a contempt of the court or officer, by whom his attendance or testimony is required.

Disobedience
to subpoena,
how punished.

8. When a witness fails to attend in obedience to a subpoena (except in case of a demand and failure to pay his fees), the court or officer before whom his attendance is required, may issue an attachment to the sheriff, coroner, or constable of the county, commanding him to arrest and bring the person therein named, before the court or officer, at a time and

When court
may issue at-
tachment for
witness.

place to be fixed in the attachment, to give his testimony and answer for the contempt. If the attachment be not for immediately bringing the witness before the court or officer, a sum may be fixed in which the witness may give an undertaking with surety for his appearance. Such sum shall be indorsed on the back of the attachment, and if no such sum is fixed and indorsed, it shall be one hundred dollars. If the witness be not personally served, the court may, by a rule, order him to show cause why an attachment should not issue against him.

Witness may give undertaking.

Punishment for contempt, defied.

9. The punishment for the said contempt shall be as follows: When the witness fails to attend, in obedience to the subpoena (except in case of a demand and failure to pay his fees), the court or officer may fine the witness in a sum not exceeding fifty dollars. In other cases, the court or officer may fine a witness in a sum not exceeding fifty nor less than five dollars, or may imprison in the county jail, there to remain until he shall submit to be sworn, testify, or give his deposition. The fine imposed by the court, and that imposed by the officer, shall be paid into the common school fund of the county. The witness shall also be liable to the party injured, for any damages occasioned by his failure to attend, or his refusal to be sworn, testify, or give his deposition.

Fine to go to school fund.

When court may discharge witness that is imprisoned.

10. A witness so imprisoned by an officer before whom his deposition is being taken, may apply to a judge of the supreme court, district court, or county court, who shall have power to discharge him, if it appear that his imprisonment is illegal.

Attachment for arrest, what to specify, and to whom directed.

11. Every attachment for the arrest or order of commitment to prison of a witness, by a court or officer, pursuant to this chapter, must be under the seal of the court or officer, if he have an official seal, and must specify particularly the cause of the arrest or commitment; and if the commitment be for refusing to answer a question, such question must be stated in the order. Such order of commitment may be directed to the sheriff, coroner, or any constable of the county where such witness resides or may be at the time, and shall be executed by committing him to the jail of such county, and delivering a copy of the order to the jailor.

When prison may be required to attend

12. A person confined in any prison in this Territory may, by order of any court of record, be required to be produced

for oral examination in the county where he is imprisoned; but in all other cases his examination must be by deposition.

13. While a prisoner's deposition is being taken, he shall remain in the custody of the officer having him in charge, who shall afford reasonable facilities for the taking of the deposition. Prisoner to remain in officer's custody.

14. A witness shall not be liable to be sued in a county in which he does not reside, by being served with a summons in such county while going, returning, or attending in obedience to a subpoena. Witness, when not liable to be sued.

15. At the commencement of each day after the first day, a witness may demand his fees, for that day's attendance, in obedience to a subpoena, and if the same be not paid, he shall not be required to remain. Witness may demand fees, when.

16. Before testifying, the witness shall be sworn to testify the truth, the whole truth, and nothing but the truth. The mode of administering an oath shall be such as is most binding upon the conscience of the witness. Witness, how sworn.

CHAPTER—MODE OF TAKING THE TESTIMONY OF WITNESSES.

ARTICLE—1. AFFIDAVIT. 2. DEPOSITION.

1. The testimony of witnesses is taken in three modes: Modes of taking testimony
1. By affidavit. 2. By deposition. 3. By oral examination.

2. An affidavit is a written declaration under oath, made without notice to the adverse party. Affidavit defined.

3. A deposition is a written declaration under oath, made upon notice to the adverse party for the purpose of enabling him to attend and cross-examine; or upon written interrogatories. Deposition defined.

4. An oral examination is an examination in the presence of the jury or tribunal which is to decide the fact or act upon it, the testimony being heard by the jury or tribunal from the lips of the witness. Oral examination defined.

ARTICLE I.—AFFIDAVIT.

1. An affidavit may be used to verify a pleading, to prove the service of a summons, notice, or other process in an action, to obtain a provisional remedy, an examination of a witness, a stay of proceedings, or upon a motion, and in any other case permitted by law. Affidavit, how used.

Affidavit, how made.

2. An affidavit may be made in and out of this Territory before any person authorized to take depositions, and must be authenticated in the same way.

ARTICLE II.—DEPOSITIONS.

1. When to be used.
2. Officers who may take them.
3. Manner of taking and authenticating them.
4. Exceptions to Depositions.

SUBDIVISION 1.—WHEN TO BE USED.

Depositions, when may be used.

1. The deposition of any witness may be used only in the following cases: 1. When the witness does not reside in the county where the action or proceeding is pending, or is sent for trial, by change of venue; or is absent therefrom. 2. When, from age, infirmity, or imprisonment, the witness is unable to attend court, or is dead. 3. When the testimony is required upon a motion, or in any other case where the oral examination of the witness is not required.

When testimony may be taken.

2. Either party may commence taking testimony by depositions, at any time after service upon the defendants.

SUBDIVISION 2.—OFFICERS WHO MAY TAKE THEM.

Depositions, before whom taken in the Territory.

1. Depositions may be taken in this Territory, before a judge or clerk of the supreme court, the district court or county court, before a justice of the peace, notary public, mayor, or chief magistrate of any city or town corporate, or before a master commissioner, or any person empowered by a special commission; but depositions taken in this Territory, to be used therein, must be taken by an officer or person whose authority is derived within the Territory.

Depositions, before whom taken out of the Territory.

2. Depositions may be taken out of the Territory by a judge, justice, or chancellor of any court of record, a justice of the peace, notary public, mayor or chief magistrate of any city or town corporate, a commissioner appointed by the Governor of this Territory to take depositions, or any person authorized by a special commission from this Territory.

Relatives or attorneys debarred from taking depositions.

3. The officer before whom depositions are taken, must not be a relative or attorney of either party, or otherwise interested in the event of the action or proceeding.

Who may grant commissions to take depositions.

4. Any court of record of this Territory, or any judge thereof, is authorized to grant a commission to take depositions within or without the Territory. The commission must be is-

sued to a person or persons therein named, by the clerk, under the seal of the court granting the same, and depositions under it must be taken upon written interrogations, unless the parties otherwise agree.

SUBDIVISION 3.—MANNER OF TAKING AND AUTHENTICATING THEM.

1. Prior to the taking of any deposition, unless taken under a special commission, a written notice, specifying the action or proceeding, the name of the court or tribunal in which it is to be used, and the time and place of taking the same, shall be served upon the adverse party, his agent, or attorney of record, or left at his usual place of abode. The notice shall be served so as to allow the adverse party sufficient time, by the usual route of travel, to attend, and one day for preparation, exclusive of Sundays and the day of service, and the examination may, if so stated in the notice, be adjourned from day to day.

Service of notice on adverse party. What to contain.

2. When the party against whom the deposition is to be read, is absent from, or a non-resident of the Territory, and has no agent, or attorney of record therein, he may be notified of the taking of the deposition by publication. The publication must be made three consecutive weeks, in some newspaper printed in the county where the action or proceeding is pending, if there be any printed in such county; and if not, in some newspaper printed in this Territory, of general circulation in that county. The publication must contain all that is required in a written notice, and may be proved in the manner prescribed in publication of summons.

When notice may be given by publication.

3. The deposition shall be written in the presence of the officer taking the same, either by the officer, the witness, or some disinterested person, and subscribed by the witness.

Deposition to be written in presence of officer.

4. The deposition so taken shall be sealed up and indorsed with the title of the cause and the name of the officer taking the same, and by him addressed and transmitted to the clerk of the court where the action or proceeding is pending. It shall remain under seal until opened by the clerk, by order of the court, or at the request of a party to the action or proceeding, or his attorney.

Deposition to be sealed and transmitted to clerk.

5. Depositions taken pursuant to this article shall be admitted in evidence, on the trial of any civil action or proceed-

Depositions to be admitted in evidence.

ing, pending before any justice of the peace, mayor, or other judicial officer of a city, or town corporate, or before any arbitrators or referees, and such deposition shall be sealed up, indorsed with the title of the action or proceeding, the name of the officer taking the same, and addressed and transmitted by such officer to such justice, mayor, or other judicial officer, arbitrator, or referees.

Deposition,
when may be
read.

6. When a deposition has once been taken, it may be read in any stage of the same action or proceeding, or in any other action or proceeding upon the same matter, between the same parties, subject, however, to all such exceptions as may be taken thereto under the provisions of this title.

Depositions,
how authenti-
cated.

7. Depositions taken pursuant to this article, by any judicial or other officer herein authorized to take depositions, having a seal of office, whether resident in this Territory or elsewhere, shall be admitted in evidence upon the certificate and signature of such officer, under the seal of the court of which he is an officer, or his official seal, and no other or further act or authentication shall be required. If the officer taking the same have no official seal, the deposition, if not taken in this Territory, shall be certified and signed by such officer, and shall be further authenticated, either by parol proof, adduced in court, or by the official certificate and seal of any secretary or other officer of state keeping the great seal thereof, or of the clerk or prothonotary of any court having a seal, attesting that such judicial or other officer was, at the time of taking of the same, within the meaning of this chapter, authorized to take the same. But if the deposition be taken within or without this Territory, under a special commission, it shall be sufficiently authenticated by the official signature of the officer or commissioner taking the same.

Deposition,
how authenti-
cated.

Character of
certificate to be
attached to
deposition.

8. The officer taking the deposition shall annex thereto a certificate showing the following facts: That the witness was first sworn to testify the truth, the whole truth, and nothing but the truth. That the deposition was reduced to writing by some proper person (naming him). That the deposition was written and subscribed in the presence of the officer certifying thereto. That the deposition was taken at the time and place specified in the notice.

Deposition
received in
court, when.

9. When a deposition is offered to be read in evidence, it must appear to the satisfaction of the court, that for any

cause specified in the first section of subdivision one of article two of this chapter, the attendance of the witness cannot be procured.

10. Every deposition intended to be read in evidence on the trial, must be filed at least one day before the trial. When deposition to be filed.

SUBDIVISION 4.—EXCEPTIONS TO DEPOSITIONS.

1. Exceptions to depositions shall be in writing, specifying the grounds of objections, and filed with the papers in the cause. Exceptions, how made and what to specify

2. No exception other than for incompetency or irrelevancy, shall be regarded, unless made and filed before the commencement of the trial. Certain exceptions to be disregarded.

3. The court shall, on motion of either party, hear and decide the questions arising on exceptions to depositions, before the commencement of the trial. Exceptions, when to be read and determined

4. Errors of the court in its decisions upon exceptions to depositions are waived unless excepted to. Errors of the court, when waived.

CHAPTER—ADMISSION OF DOCUMENTS AND GENERAL PROVISIONS.

1. Printed copies in volumes of statutes, code, or other written law, enacted by any other Territory or State, or foreign government, purporting or proved to have been published by the authority thereof, or proved to be commonly admitted as evidence of the existing law in the courts or tribunals of such Territory, State or Government, shall be admitted by the courts and officers of this Territory on all occasions, as presumptive evidence of such laws. The unwritten or common law of any other Territory, State or foreign government, may be proved as facts by parol evidence; and the books of reports of cases adjudged in their courts may also be admitted, as presumptive evidence of such law. What shall be admitted as evidence of existing law.

CHAPTER—PROCEEDINGS TO PERPETUATE TESTIMONY.

1. The testimony of a witness may be perpetuated in the following manner: Manner of perpetuating testimony of witness.

2. The applicant shall file in the office of the clerk of the district court, a petition, to be verified, in which shall be set forth, specially, the subject-matter, relative to which testimony is to be taken, and the names of the persons interested, if known to the applicant; and if not known, such general description as he can give of such persons, as heirs, devisees,

alienees, or otherwise. The petition shall also state the names of the witnesses to be examined, and the interrogatories to be propounded to each; that the applicant expects to be a party to an action in a court of this Territory, in which such testimony will, as he believes, be material, and the obstacles preventing the immediate commencement of the action, where the applicant expects to be plaintiff.

Order of court,
what to pre-
scribe.

3. The court or judge thereof, may forthwith make an order allowing the examination of such witnesses. The order shall prescribe the time and place of the examination, how long the parties interested shall be notified thereof, and the manner in which they shall be notified.

Duty of court
when parties
cannot be noti-
fied.

4. When it appears satisfactory to the court or judge that the parties interested cannot be notified, such court or judge shall appoint a competent attorney to examine the petition and prepare and file cross interrogatories to those contained therein. The witnesses shall be examined upon the interrogatories of the applicant, and upon cross interrogatories, where they are required to be prepared, and no others shall be propounded to them; nor shall any statement be received which is not responsive to some one of them. The attorney filing the cross interrogatories shall be allowed a reasonable fee therefor, to be taxed in the bill of costs.

Attorney to
be allowed fee.

Depositions
to be taken be-
fore competent
authority.

5. Such depositions shall be taken before some one authorized by law to take depositions, or before some one specially authorized by the court or judge, and shall be returned to the clerk's office of the court in which the petition was filed.

When court
shall approve
deposition;
and when it
may be admit-
ted in evidenc

6. The court or judge, if satisfied that the depositions have been properly taken, and as herein required, shall approve the same and order them to be filed; and if a trial be had between the parties named in the petition, or their privies or successors in interest, such depositions, or certified copies thereof, may be given in evidence by either party, where the witnesses are dead or insane, or where their attendance for oral examination cannot be obtained or required; but such depositions shall be subject to the same objections for irrelevancy and incompetency as may be made to depositions taken pending an action.

Applicant to
pay cost of pro-
ceedings.

7. The applicant shall pay the cost of all proceedings under this chapter.

SEC. 10. No judgment shall be rendered at a special term of the district court. No attorney's fees shall be allowed the prevailing party in any case, and in all cases in the district court the defendant shall have until the morning of the second day of the next general term of said court to answer or demur after the commencement of the suit, and no notice of trial need be given in cases hereafter commenced. No fees or costs shall be allowed to any party in a civil action, except witness fees, jury fees, clerk's fees and costs of court. No civil case, which is in the jurisdiction of the courts of justices of the peace shall be commenced originally in the district courts of this Territory.

When district court debarred from rendering judgment.

Attorney's fees disallowed

Time to answer or demur.

What fees allowed.

Certain civil cases not to be commenced in district court.

SEC. 11. That Section 527 of an act to establish a civil code, approved January 12th, 1866, be and the same is hereby repealed.

Section 527 repealed.

SEC. 12. This act shall take effect and be in force from and after its passage and approval by the Governor.

When to take effect.

Approved, January 10th, 1873.

CHAPTER 3.

AN ACT TO AMEND SECTION 233 OF "AN ACT TO SIMPLIFY AND ABRIDGE THE PRACTICE, PLEADINGS AND PROCEEDINGS OF THE COURTS OF THIS TERRITORY," PASSED AT THE SEVENTH SESSION, RELATING TO DOCKETING JUDGMENTS OF JUSTICES' OF THE PEACE IN THE DISTRICT COURT, AND THE LIEN CREATED THEREBY.

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

SECTION 1. That section 233 of "An Act to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory," passed at the seventh session, be, and the same is hereby amended by adding to the same the following: A justice of the peace, on the demand of a party in

When justice of peace shall give transcript of judgment.

whose favor he shall have rendered a judgment, shall give a transcript thereof, which may be filed and docketed in the office of the clerk of the district court of the county where the judgment was rendered. The time of the receipt of the transcript by the clerk shall be noted thereon, and entered in the docket; and from that time the judgment shall be a judgment of the district court, and shall be a lien on real property in like manner. A certified transcript of such judgment may be filed and docketed in the district clerk's office of any other county, and with the like effect, in every respect, as in the county where the judgment was rendered, except that it shall be a lien only from the time of filing and docketing the transcript.

Judgment, on what to be a lien.

When to take effect.

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

Approved, January 10th, 1873.

CHAPTER 4.

AN ACT TO AMEND CHAPTER 3 OF TITLE 4 OF THE CIVIL CODE,
APPROVED JANUARY 12TH, 1866.

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

Amendment of law relating to interest on money.

SECTION 1. That section 972 of the third chapter of title four of the civil code, approved January 12th, 1866, be amended as follows, to-wit: Strike out the word "two" in the third line of said section, and insert the words "one and one-half;" ($1\frac{1}{2}$) also the words "twenty-four," in the fourth line of said section, shall be stricken out, and the word "eighteen" inserted in lieu thereof.

Section repealed.

SEC. 2. Section 977 of said chapter and title is hereby repealed.

Not to effect existing contracts.

SEC. 3. This act shall not be construed so as to change the rates of interest in any existing contract.

When to take effect.

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

Approved, January 10th, 1873.

CHAPTER 5.

AN ACT TO REPEAL CHAPTER FIRST OF THE LAWS OF 1868-9, ENTITLED "AN ACT TO ESTABLISH A CODE OF CRIMINAL PROCEDURE FOR DAKOTA TERRITORY," APPROVED JANUARY 12TH, 1869, AND FOR OTHER PURPOSES.

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

SECTION 1. That chapter first of the laws of 1868-9, entitled "An Act to establish a code of criminal procedure for Dakota Territory," approved January 12th, 1869, be, and the same is hereby repealed. Certain chapter of criminal code repealed.

SEC. 2. That from and after the passage and approval of this act, the proceedings, practice and pleadings in the district courts of this Territory, in criminal cases, shall be in accordance with the proceedings, practice and pleadings of the common law, except where the same is otherwise expressly regulated by law, and such proceedings, practice and pleadings shall be assimilated as near as may be with the proceedings, practice and pleadings of the United States or Federal side of said courts. *Provided*, That chapter eighteen, of the laws of 1867-8, entitled "An Act relating to the challenging of jurors in civil and criminal cases," and chapter nineteen of the laws of 1867-8, entitled "An Act respecting grand and petit jurors of the district courts," shall remain in full force and effect. Criminal procedure to be in accordance with common law.

SEC. 3. Writs of error, bills of exceptions and appeals, shall be allowed to the defendant in all criminal cases, when required by him, under such rules and regulations as the supreme court of the Territory may prescribe; and the said supreme court shall, at its first annual session, make all necessary rules and regulations to carry this section into effect. Certain remedies allowed to defendants.

SEC. 4. This act shall take effect and be in force from and after its passage and approval. Supreme court to prescribe rules.

Approved, January 8th, 1873. When to take effect.

CHAPTER 6.

AN ACT REPEALING A PORTION OF THE CRIMINAL CODE AND
TO RE-ENACT THE JUSTICE CODE OF 1865-1866.

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

Certain act
repealed.

SECTION 1. That part five, titles one and two, of an act entitled "An act to establish a code of criminal procedure for Dakota Territory," approved January 12th, 1869, be, and the same is hereby repealed.

Certain act to
remain in full
force.

SEC. 2. That the justice code, being chapter thirty-one of the laws of 1865 and 1866, approved January 4th, 1866, as republished by order of a joint resolution, (chapter 30, laws of 1870, and 71,) be and the same is hereby re-enacted, and made of full force and effect.

Conflicting
acts repealed.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

When to take
effect.

SEC. 4. This act shall take effect from and after its approval.

Approved, January 9, 1873.

CHAPTER 7.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH THE COURTS AND DEFINE THE JURISDICTION OF JUSTICES OF THE PEACE, APPROVED JANUARY 4TH, A. D., 1866.

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

Defendant al-
lowed to waive
examination.

SECTION 1. That section 315 of said act be and the same is amended by adding to said section the following, to-wit: *Provided*, That the accused may in all cases waive an examination, and be held by the justice for trial at the next term of the district court.

When to take
effect.

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

Approved, January 10, 1873.

CHAPTER 8.

AN ACT TO AMEND CHAPTER TWENTY-FOUR OF THE SESSION
LAWS OF 1868 AND 9.

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

SECTION 1. That chapter twenty-four of the session laws of 1868 and 9, be amended by striking out the word January where it occurs in said chapter, and inserting the word February, instead thereof. Time of assessment changed.

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

Approved, January 6, 1873.

CHAPTER 9.

AN ACT TO AMEND SECTION FIVE OF CHAPTER SIX OF THE
SESSION LAWS OF 1868 AND 9.

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

SECTION 1. That section 5 of chapter 6 of the session laws of 1868 and 9, be and the same is hereby amended, by striking out the word "one" in the second line, [and] inserting in lieu thereof the word "two." By striking out the word "twenty-five," in line 8 and inserting in lieu thereof the word "fifty." By striking out the word "twenty-five" in line "13" and inserting in lieu thereof the word "fifty." By striking out the words "fifty cents" in line "16" and inserting in lieu thereof, "one dollar." By Fees of sheriff.

striking out of line "20," the word "five" and inserting in lieu thereof, "ten." By striking out of line "29," the word "six," and inserting in lieu thereof the word "sixteen." By striking out of line "45" the word "real," and add to line "46," "posting notices of sale of real property, one dollar." Add to line "53," "for first day and for each day after the first, two dollars."

Conflicting
acts repealed.

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

When to take
effect.

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

Approved, January 10th, 1873.

CHAPTER 10.

AN ACT TO AMEND SECTION 11, OF CHAPTER 15 OF THE STATUTES OF THIS TERRITORY, APPROVED JANUARY 11TH, 1865.

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

Mortgagor to
retain possession
of homestead
until time
of redemption
expires.

SECTION 1. At the end of section 11, chapter 15 of the statutes approved January 11th, 1865, add the following words: "Except when the premises mortgaged are the homestead or place of residence of the mortgagee or his family, in which case the mortgagor may retain peaceable possession until the time of redemption expires."

When to take
effect.

SEC. 2. This act shall be in force from and after its passage.

Approved, January 10th, 1873.

CHAPTER 11.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH
A PUBLIC SCHOOL LAW FOR THE TERRITORY OF DAKOTA."

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

SECTION 1. That an act entitled "An act to establish a public school law for the Territory of Dakota," approved January 11th, A. D. 1871, be and the same is hereby amended as follows, to-wit:

SEC. 2. That section five of said law is hereby amended in first three lines and made to read as follows: "The superintendent of public instruction shall receive for his services the sum of six hundred dollars per annum, payable quarterly."

SEC. 3. That said superintendent may in conjunction with the county superintendent, hold annually a teachers Institute in such counties as he may deem advisable, at which Institute all the teachers of such county are expected to be present; said Institutes not to continue less than three, nor more than four days, which Institutes shall be free to all teachers and those preparing to teach in this Territory.

SEC. 4. That all laws and parts of laws in conflict with this act are hereby repealed.

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

Approved, January 10th, 1873.

CHAPTER 12.

AN ACT TO AMEND SECTIONS 30 AND 51 OF "AN ACT CONCERNING REVENUE," APPROVED, JANUARY 12TH, 1869.

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

Rate of Territorial tax.

SECTION 1. That the first clause of section 30, of "An Act concerning revenue," approved January 12th, 1869, be, and the same is hereby amended so as to read as follows: "The rate of the general Territorial tax shall not be less than one-half mill, nor more than five mills on the dollar valuation.

When taxes to become delinquent.

SEC. 2. That section 51 of said act be amended so as to provide that all unpaid taxes shall become delinquent on the first Monday of March, in each year.

When to take effect.

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

Approved, January 10th, 1873.

CHAPTER 13.

AN ACT TO REPEAL CHAPTER THREE OF THE SESSION LAWS OF 1870-71, AND THE AMENDMENT THERETO MADE AT THE EXTRA SESSION OF THE LEGISLATIVE ASSEMBLY IN 1871.

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

Repealing certain act relative to giving bonds in actions affecting real property.

SECTION 1. That chapter three of the session laws of 1870-71, and the amendment thereto made at the extra session of the Legislative Assembly in 1871, be, and the same are hereby repealed.

When to take effect.

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

Approved, December 28th, 1872.

APPROPRIATIONS.

CHAPTER 14.

AN ACT MAKING AN APPROPRIATION FOR THE SALARY OF THE COMMISSIONER OF IMMIGRATION, AND FOR OTHER PURPOSES.

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

SECTION 1. The Commissioner of Immigration of Dakota Territory, shall be allowed an annual salary of four hundred dollars, said sum to be paid quarterly by the Territorial Treasurer, out of any money not otherwise appropriated. Salary of Commissioner of Immigration.

SEC. 2. The Commissioner of Immigration may, in his discretion, use a portion of the funds heretofore appropriated (for the purpose of publishing and circulating documents) in advertising the Territory in newspapers. Commissioner may advertise in newspapers.

SEC. 3. This act shall take effect from and after its passage. When to take effect.
Approved, January 10th, 1873.

CENSUS.

CHAPTER 15.

AN ACT FOR TAKING THE CENSUS OF DAKOTA TERRITORY FOR THE YEAR EIGHTEEN HUNDRED AND SEVENTY-FOUR.

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

SECTION 1. That it be the duty of the assessors of the several counties, towns and townships, of this Territory, when taking Assessors to take census in 1874, and make returns.

the annual assessment of property in the year 1874, at the same time to take the census of all the inhabitants of their respective counties, towns or townships, and make returns to the registers of deeds of their respective counties, on the first Monday of April, in said year.

Registers of deeds to transmit copies to Secretary.

SEC. 2. Said registers of deeds shall be required within thirty days after receiving said returns, to transmit a certified copy of the same to the Secretary of the Territory, who shall file the same in his office.

Registers to furnish blanks.

SEC. 3. Said registers of deeds of the several counties, shall furnish all necessary blanks to the assessors aforesaid, for the taking of said census aforesaid.

When to take effect.

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

Approved, January 10th, 1873.

COUNTIES.

CHAPTER 16.

AN ACT TO ESTABLISH THE BOUNDARIES OF CERTAIN COUNTIES OF THE TERRITORY.

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

Minnehaha county defined.

SECTION 1. The county of Minnehaha shall be bounded and described as follows: Beginning at the southwest corner of the State of Minnesota; thence north along the west boundary of said State to the north line of township one hundred and four, at a point where the 1st standard parallel intersects

said State line; thence west along said standard parallel to the 7th guide meridian, between range fifty-two and fifty-three; thence south along said guide meridian to the north line of township one hundred; thence east along said town line to the place of beginning.

SEC. 2. The county of Moody shall be bounded and described as follows: Beginning at the southeast corner of township one hundred and five, at a point on the Minnesota State line where the 1st standard parallel intersects said State line; thence west along the said standard parallel to the southwest corner of township one hundred and five, between ranges fifty and fifty-one; thence north along said range line to the second standard parallel; thence east along said standard parallel to the Minnesota State line; thence south along said State line to the place of beginning. Moody county defined.

SEC. 3. The county of Lake shall be bounded and described as follows: Beginning at the southwest corner of the county of Moody; thence west along the 1st standard parallel to the southwest corner of township one hundred and five, between ranges fifty-four and fifty-five; thence north to the 2nd standard parallel; then east on said standard parallel to the northwest corner of the county of Moody; thence south along the west boundary of said county to the place of beginning. Boundaries of Lake county defined.

SEC. 4. The county of Brookings shall be bounded and described as follows: Beginning at the point where the 2nd standard parallel intersects the Minnesota State line; thence west along said standard parallel to the southwest corner of township one hundred and nine, between ranges fifty-two and fifty-three; thence north between said ranges to the 3rd standard parallel; thence east along said standard parallel to the Minnesota State line; thence south along said State line to the place of beginning. Brookings county defined.

SEC. 5. The county of Duel shall be bounded and described as follows: Beginning at a point on the Minnesota State line, where the 3rd standard parallel intersects said State line; thence west along said standard parallel to the southwest corner of township one hundred and thirteen, between ranges fifty and fifty-one; thence north between said ranges to the northwest corner of township one hundred and seventeen; thence east along the township line between townships one hundred and seventeen and one hundred and eighteen, to the Duel county defined.

Minnesota State line; thence south along said State line to the place of beginning.

Hamlin county defined.

SEC. 6. The county of Hamlin shall be bounded and described as follows: Beginning at the southwest corner of the county of Duel, on the 3rd standard parallel; thence west along said standard parallel to the southwest corner of township one hundred and thirteen, between ranges fifty-four and fifty-five; thence north between said ranges to the northwest corner of township one hundred and seventeen; thence east to the northwest corner of the county of Duel; thence south along the west boundary of the county of Duel to the place of beginning.

Grant county defined.

SEC. 7. The county of Grant shall be bounded and described as follows: Beginning at the southeast corner of township one hundred and eighteen, on the Minnesota State line; thence west along the north boundary of the counties of Duel and Adair, to the southeast boundary of the Sisseton and Wapeton Indian Reserve; thence northeasterly along the boundary of said Indian Reserve to the Minnesota State line; thence along said State line to the place of beginning.

Hutchinson county defined.

SEC. 8. The county of Hutchinson shall be bounded and described as follows: Beginning at the southeast corner of township ninety-seven, between ranges fifty-five and fifty-six; thence north between said ranges to the northeast corner of township ninety-eight; thence west along the north boundary of said township to the northwest corner of township ninety-eight, between ranges sixty-one and sixty-two; thence south between said ranges to the southwest corner of township ninety-seven; thence east along the south boundary of said township to the place of beginning.

Armstrong county defined.

SEC. 9. The county of Armstrong shall be bounded and described as follows: Beginning at the northeast corner of Hutchinson county; thence west along the north boundary of said county to the northwest corner thereof; thence north between ranges sixty-one and sixty-two, to the northwest corner of township one hundred; thence east along the north boundary of said township, to the northeast corner of township one hundred, between ranges fifty-five and fifty-six; thence south to the place of beginning.

Hanson county defined.

SEC. 10. The county of Hanson shall be bounded and described as follows: Beginning at the southeast corner of

township one hundred and one, between ranges fifty-five and fifty-six; thence north between said ranges to the northeast corner of township one hundred and two; thence west along the north boundary of said township to the northwest corner of township one hundred and two, between ranges sixty-one and sixty-two; thence south between said ranges to the southwest corner of township one hundred and one; thence east along the south boundary of said township to the place of beginning.

SEC. 11. The county of Davison shall be bounded and described as follows: Beginning at the northeast corner of Hanson county; thence west along the north boundary of said county to the northwest corner thereof; thence north between ranges sixty-one and sixty-two, to the northwest corner of township one hundred and four; thence east along the north boundary of said township to the range line between ranges fifty-five and fifty-six; thence south to the place of beginning. Davison county defined.

SEC. 12. The county of Bramble shall be bounded and described as follows: Beginning at the southwest corner of the county of Lake; thence west along the 1st standard parallel to the northwest corner of the county of Davison; thence north between ranges sixty-one and sixty-two, to the northwest corner of township one hundred and six; thence east along the north boundary of said township to the range line between ranges fifty-four and fifty-five; thence south along said range line to the place of beginning. Bramble county defined.

SEC. 13. The county of Miner shall be bounded and described as follows: Beginning at the northeast corner of the county of Bramble; thence west along the north boundary of said county to the northwest corner thereof; thence north between ranges sixty-one and sixty-two, to the northwest corner of township one hundred and eight; thence east along the north boundary of said township, to the range line between ranges fifty-four and fifty-five; thence south along said range line to the place of beginning. Miner county defined.

SEC. 14. The county of Wetmore shall be bounded and described as follows: Beginning at the southwest corner of the county of Bramble; thence north along the west boundary of the counties of Bramble and Miner, to the second standard parallel; thence west along said standard parallel, to the 9th Wetmore county defined.

guide meridian; thence south along said guide meridian to the first standard parallel; thence east along said standard parallel to the place of beginning.

McCook
county defined.

SEC. 15. The county of McCook shall be bounded and described as follows: Beginning at the southeast corner of the county of Minnehaha; thence north along the west boundary of said county to the northwest corner thereof; thence west to the northeast corner of Davison county; thence south along the east boundaries of the counties of Davison and Hanson, to the southeast corner of the county of Hanson; thence east to the place of beginning.

Clark county
defined.

SEC. 16. The county of Clark shall be bounded and described as follows: Beginning at the southwest corner of the county of Adair; thence west along the 3rd standard parallel to the 8th guide meridian; thence north along said guide meridian to the 5th standard parallel; thence east along said standard parallel to the west boundary of the Sisseton Indian Reservation; thence southeast along said Indian Reservation to the north boundary of the county of Adair; thence west to the northwest corner of the county of Adair; thence south to the place of beginning.

Cragin county
defined.

SEC. 17. The county of Cragin shall be bounded and described as follows: Beginning at the southwest corner of the county of Hanson; thence west along the north boundary of Charles Mix county to the 9th guide meridian; thence north to the southwest corner of Wetmore county; thence east along the south boundary of Wetmore county to the northwest corner of Davison county; thence south to the place of beginning.

Wood county
defined.

SEC. 18. The county of Wood shall be bounded and described as follows: Beginning at the southwest corner of Brookings county; thence west along the 2nd standard parallel to the range line between ranges fifty-six and fifty-seven; thence north on said range line to the 3rd standard parallel; thence east along said standard parallel to the northwest corner of Brookings county; thence south to the place of beginning.

Kingsbury
county defined.

SEC. 19. The county of Kingsbury shall be bounded and described as follows: Beginning at the southwest corner of Wood county; thence west along the 2nd standard parallel

to the range line between ranges sixty-one and sixty-two; thence north on said range line to the 3rd standard parallel; thence east along said parallel to the northwest corner of Wood county; thence south to the place of beginning.

SEC. 20. The county of Burchard shall be bounded and described as follows: Beginning at the southwest corner of the county of Kingsbury; thence west along the 2nd standard parallel to the 9th guide meridian; thence north to the 3rd standard parallel; thence east on said standard parallel to the northwest corner of the county of Kingsbury; thence south to the place of beginning. Burchard county defined.

SEC. 21. The county of Greeley shall be bounded and described as follows: Beginning at the northeast corner of Clark county; thence west along the northern boundary of Clark county to the 8th guide meridian; thence north to the 6th standard parallel; thence east along said parallel to the western boundary of the Sisseton Indian Reservation; thence southerly along said boundary to the place of beginning. Greeley county defined.

SEC. 22. The county of Spink shall be bounded and described as follows: Beginning at the southwest corner of Clark county; thence west along the 3rd standard parallel to the 9th guide meridian; thence north along said guide meridian to the 4th standard parallel; thence east along said standard parallel to the county of Clark; thence south to the place of beginning. Spink county defined.

SEC. 23. The county of Thompson shall be bounded and described as follows: Beginning at the northeast corner of the county of Spink; thence west along the said county to the 9th guide meridian; thence north to the 5th standard parallel; thence east to the county of Clark; thence south to the place of beginning. Thompson county defined.

SEC. 24. The county of Mills shall be bounded and described as follows: Beginning at the northeast corner of the county of Thompson; thence west along the northern boundary thereof to the 9th guide meridian; thence north on said guide meridian to the 6th standard parallel; thence east to the county of Greeley; thence south to the place of beginning. Mills county defined.

SEC. 25. The county of Beadle shall be bounded and described as follows: Beginning at the northeast corner of the Beadle county defined.

county of Mills; thence west along the northern boundary of said county to the 9th guide meridian; thence north on said guide meridian to the 46th degree of north latitude; thence east to the county of Stone; thence south to the place of beginning.

Buffalo county defined.

SEC. 26. The county of Buffalo shall be bounded and described as follows: Beginning at the northeast corner of township one hundred and one, north of [range] sixty-seven west; thence north on the 9th guide meridian to the 2nd standard parallel; thence west to the Missouri river; thence along the course of said river to the northwest corner of Charles Mix county; thence east to the place of beginning.

Hyde county defined.

SEC. 27. The county of Hyde shall be bounded and described as follows: Beginning at the northeast corner of the county of Buffalo; thence north along the 9th guide meridian to the 3rd standard parallel; thence west to the 10th guide meridian; thence south to the Missouri river; thence down the course of the main channel of said river to the northwest corner of Buffalo county; thence east to the place of beginning.

Hand county defined.

SEC. 28. The county of Hand shall be bounded and described as follows: Beginning at the northeast corner of the county of Hyde; thence north along the 9th guide meridian to the 4th standard parallel; thence west to the 10th guide meridian; thence south to the 3rd standard parallel; thence east to the place of beginning.

Faulk county defined.

SEC. 29. The county of Faulk shall be bounded and described as follows: Beginning at the northwest corner of the county of Hand; thence north along the 9th guide meridian to the 5th standard parallel; thence west to the 10th guide meridian; thence south to the 4th standard parallel; thence east to the place of beginning.

Edmunds county defined.

SEC. 30. The county of Edmunds shall be bounded and described as follows: Beginning at the northeast corner of the county of Faulk; thence north along the 9th guide meridian to the 6th standard parallel; thence west to the 10th guide meridian; thence south to the 5th standard parallel; thence east to the place of beginning.

McPherson county defined.

SEC. 31. The county of McPherson shall be bounded and described as follows: Beginning at the northeast corner of the county of Edmunds; thence north along the 9th guide

meridian to the northwest corner of the county of Beadle; thence west on the 46th parallel of north latitude to the 10th guide meridian; thence south on the 10th guide meridian to the 6th standard parallel; thence east to the place of beginning.

SEC. 32. The county of Hughes shall be bounded and described as follows: Beginning at a point where the 10th guide meridian intersects the Missouri river; thence north along said guide meridian to the 3rd standard parallel; thence west to the Missouri river; thence down the center of the main channel of said river to the place of beginning. Hughes county defined.

SEC. 33. The county of Sully shall be bounded and described as follows: Beginning at the northeast corner of the county of Hughes; thence west along the 10th guide meridian to the 4th standard parallel; thence west along said standard parallel to the center of the main channel of the Missouri river; thence down the center of the main channel of said river to the 3rd standard parallel; thence east to the place of beginning. Sully county defined.

SEC. 34. The county of Ashmore shall be bounded and described as follows: Beginning at the northeast corner of the county of Sully; thence north on the 10th guide meridian to the fifth standard parallel; thence west to the center of the main channel of the Missouri river; thence down the center of the main channel of said river to the 4th standard parallel; thence east to the place of beginning. Ashmore county defined.

SEC. 35. The county of Walworth shall be bounded and described as follows: Beginning at the northeast corner of the county of Ashmore; thence north on the 10th guide meridian to the 6th standard parallel; thence west to the center of the main channel of the Missouri river; thence along the center of the main channel of said river to the 5th standard parallel; thence east to the place of beginning. Walworth county defined.

SEC. 36. The county of Campbell shall be bounded and described as follows: Beginning at the northeast corner of the county of Walworth; thence north on the 10th guide meridian to the 46th parallel of north latitude; thence west to the center of the main channel of the Missouri river; thence along the center of the main channel of said river to the 6th standard parallel; thence east to the place of beginning. Campbell county defined.

Stone county
defined.

SEC. 37. The county of Stone shall be bounded and described as follows: Beginning at the northeast corner of the county of Greeley; thence west along the north boundary of said county to the 8th guide meridian; thence north along said guide meridian to the 46th parallel of north latitude; thence east along said parallel to the western boundary of the Sisseton Indian Reservation; thence southerly to the place of beginning.

Conflicting
acts repealed.

SEC. 38. All acts and parts of acts heretofore enacted, which relate to the boundaries of counties, in conflict with this act, are hereby repealed.

When to take
effect.

SEC. 39. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, January 8th, 1873.

CHAPTER 17.

AN ACT IN AMENDMENT OF AND SUPPLEMENTAL TO "A BILL TO ESTABLISH THE BOUNDARIES OF CERTAIN COUNTIES OF THE TERRITORY, AND TO ORGANIZE CERTAIN COUNTIES, AND FOR OTHER PURPOSES," APPROVED, JANUARY 8TH, 1873.

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

Boundaries
of Buffalo coun-
ty defined.

SECTION 1. The county of Buffalo shall be bounded and described as follows: Beginning at the southwest corner of township No. 105, north of range 66 west; thence north on the 9th guide meridian to the 2d standard parallel; thence west to the Missouri river; thence along the course of said river in a southerly direction to the 1st standard parallel; thence east to the place of beginning.

Charles Mix
county defined.

SEC. 2. The county of Charles Mix shall be bounded and described as follows: Beginning at the southwest corner of Buffalo county; thence southerly along the course of the Missouri river to the southwest corner of Bon Homme county;

thence northerly along the western boundary of Bon Homme county to the northeast corner of the Yankton Sioux Indian Reservation; thence westerly along the northern boundary of said reservation to the northwest corner thereof; thence west to the west boundary of range 66; thence north between ranges 66 and 67 to the 1st standard parallel; thence west to the place of beginning.

SEC. 3. The county of Douglas shall be bounded and described as follows: Beginning at the northwest corner of township No. 100, north of range 66 west; thence east to the eastern boundary of range 62; thence south between ranges 61 and 62, to the northern boundary of Charles Mix county; thence westerly along the northern boundary of Charles Mix county to the western boundary of range 66; thence north between ranges 66 and 67 to the place of beginning. Douglas county defined.

SEC. 4. This act shall take effect and be in force from and after its passage and approval by the Governor. When to take effect.

Approved, January 10th, 1873.

CHAPTER 18.

AN ACT CREATING NEW COUNTIES AND DEFINING THEIR BOUNDARIES.

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

SECTION 1. That all that district of country included within the following boundary lines, to-wit: Beginning at the northwest corner of Pembina county, on the forty-ninth parallel of north latitude; thence running west on said parallel of latitude to its intersection by the ninth guide meridian; thence south on said guide meridian to its intersection with the fourteenth standard parallel; thence east on said fourteenth par- Boundaries of Pembina county defined.

allel to its intersection with the eighth guide meridian; and thence north on said last mentioned meridian to the point of beginning, shall be, and the same is hereby constituted and made the county of Cavileer.

Cavileer
county defined.

SEC. 2. That all that district of country included within the following boundary lines, to-wit: Beginning at the north-west corner of Cavileer county, on the forty ninth parallel of north latitude; thence running west on said parallel of latitude to its intersection by the tenth guide meridian; thence south on said guide meridian to its intersection with the fourteenth standard parallel; thence east on said last named standard to its intersection with the ninth guide meridian; thence north on said ninth guide meridian to the point of beginning, shall be, and the same is hereby constituted and made the county of Rolette.

Rolette coun-
ty defined.

SEC. 3. That all that district of country included within the following boundary lines, to-wit: Beginning at the north-west corner of Rolette county, on the forty-ninth parallel of north latitude; thence running west on said parallel of latitude to its intersection by the eleventh guide meridian; thence south on said last named guide meridian to its intersection with the fourteenth standard parallel; thence east on said last named parallel to its intersection with the tenth guide meridian; and thence north on said last named guide to the point of beginning, shall be, and the same is hereby constituted and made the county of Bottineau.

Bottineau
county defined.

SEC. 4. That all that district of country included within the following boundary lines, to-wit: Beginning at the north-west corner of Bottineau county, on the forty-ninth parallel of north latitude; thence running west on said parallel of latitude to its intersection by the twelfth guide meridian; thence south on said guide meridian to its intersection with the fourteenth standard parallel; thence east on said last mentioned standard parallel to its intersection with the eleventh guide meridian; and thence north on said last named guide meridian, to the point of beginning, shall be, and the same is hereby constituted and made the county of Renville.

Renville.
county defined.

SEC. 5. That all that district of country included within the following boundary lines, to-wit: Beginning at the north-west corner of Renville county, on the forty-ninth parallel of north latitude; thence running west to its intersection by the

thirteenth guide meridian; thence south on said guide meridian to its intersection with the Missouri river; thence down the main channel of said river to its intersection by the township line between townships one hundred and fifty and one hundred and fifty-one; thence east on said township line to its intersection with the twelfth guide meridian; and thence north on said last mentioned guide meridian to the point of beginning, shall be, and the same is hereby constituted and made the county of Mountraille.

SEC. 6. That all that district of country included within the following boundary lines, to-wit: Beginning at the northwest corner of Mountraille county, on the forty-ninth parallel of north latitude; thence running west on said parallel of latitude to the northwest corner of Dakota Territory; thence south on said west boundary line of the Territory to the Missouri river; thence down the main channel of said river to its intersection by the thirteenth guide meridian; and thence north on said last named guide meridian to the point of beginning, shall be, and the same is hereby constituted and made the county of Walette. Walette county defined.

SEC. 7. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of the eleventh guide meridian with the fourteenth standard parallel; thence west on said standard parallel to its intersection with the twelfth guide meridian; thence south on said last named guide meridian to its intersection with township line dividing townships one hundred and fifty and one hundred and fifty-one; thence west on said township line to the Missouri river; thence down the main channel of said river to its intersection by the eleventh standard parallel; thence east on said last mentioned parallel to its intersection with the eleventh guide meridian; and thence north on said last mentioned guide meridian to the point of beginning, shall be, and the same is hereby constituted and made the county of Stevens. Stevens county defined.

SEC. 8. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of the tenth guide meridian with the fourteenth standard parallel; thence running west on said standard parallel to its intersection with the eleventh guide meridian; thence south on said last mentioned guide meridian to its intersection with McHenry county defined.

the township line between townships one hundred and fifty and one hundred and fifty-one; thence east on said township line to its intersection with the tenth guide meridian; and thence north on said last named guide meridian to the point of beginning, shall be, and the same is hereby constituted and made the county of McHenry.

French county defined.

SEC. 9. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of the ninth guide meridian with the fourteenth standard parallel; thence running west on said fourteenth standard to its intersection with the tenth guide meridian; thence south on said last mentioned guide meridian to its intersection with the township line between townships one hundred and fifty and one hundred and fifty-one; thence east on said township line to its intersection with the ninth guide meridian; and thence north on said last named guide meridian to the point of beginning, shall be, and the same is hereby constituted and made the county of French.

Ramsey county defined.

SEC. 10. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of the eighth guide meridian with the fourteenth standard parallel; thence running west on said standard parallel to its intersection with the ninth guide meridian; thence south on said last named guide meridian to its intersection with township line dividing townships one hundred and fifty and one hundred and fifty-one; thence east on said township line to its intersection with the eighth guide meridian; and thence north on said last named guide meridian to the point of beginning, shall be, and the same is hereby constituted and made the county of Ramsey.

Foster county defined.

SEC. 11. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of the township line between townships one hundred and fifty and one hundred and fifty-one, with the eighth guide meridian; thence west on said township line to its intersection with the ninth guide meridian; thence south on said last named guide meridian to its intersection with the eleventh standard parallel; thence east on said last standard to its intersection with the eighth guide meridian; and thence north on said last named guide meridian to the point of beginning, shall

be, and the same is hereby constituted and made the county of Foster.

SEC. 12. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of the ninth guide meridian with the township line between townships one hundred and fifty and one hundred and fifty-one; thence on said township line west to its intersection with the tenth guide meridian; thence south on said last mentioned guide meridian to its intersection with the eleventh standard parallel; thence east on said parallel to its intersection with the ninth guide meridian; and thence north on said last named guide meridian to the point of beginning, shall be, and the same is hereby constituted and made the county of Gingras.

Gingras
county defined.

SEC. 13. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of the tenth guide meridian with the township line between townships one hundred and fifty and one hundred and fifty-one; thence west on said township line to its intersection with the eleventh guide meridian; thence south on said last named guide meridian to its intersection with the eleventh standard parallel; thence east on said standard parallel to its intersection with the tenth guide meridian; and thence north on said last named guide meridian to the point of beginning, shall be, and the same is hereby constituted the county of Sheridan.

Sheridan
county defined.

SEC. 14. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of the ninth guide meridian with the ninth standard parallel; running thence west on said parallel to its intersection with the tenth guide meridian; thence south on said last named guide meridian to its intersection with the township line between townships one hundred and twenty-nine, and one hundred and thirty; thence east on said township line to its intersection with the ninth guide meridian; and thence north on said last named guide meridian to the place of beginning, shall be, and the same is hereby constituted the county of Logan.

Logan coun-
ty defined.

SEC. 15. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of the range line between ranges sixty-nine and seven-

Kidder conn-
to defined.

ty, with the eleventh standard parallel; thence west on said parallel to its intersection with range line between ranges seventy-five and seventy-six; thence south on last mentioned range line to its intersection with the ninth standard parallel; thence on said last named parallel to the east line of range seventy; and thence north on said range line to the place of beginning, shall be, and the same is, hereby constituted and made the county of Kidder.

Burleigh
county defined.

SEC. 16. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of range line dividing ranges seventy-five and seventy-six, with the eleventh standard parallel; thence west on said standard parallel to its intersection with the Missouri river; thence down said river, on the main channel to the intersection of the township line between townships one hundred and twenty-nine and one hundred and thirty; thence east on said township line to its intersection with the tenth guide meridian; thence north on said last named guide to its intersection with the ninth standard parallel; thence west to the line between ranges seventy-five and seventy-six; and thence north on said last mentioned range line to the point of beginning, shall be, and the same is hereby constituted and made the county of Burleigh.

Conflicting
acts repealed.

SEC. 17. That all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

Jurisdiction
conferred on
certain coun-
ties.

SEC. 18. That the counties of Richland, Ransom, La Moure, Logan and Burleigh shall, in all respects and for all purposes have, and exercise full jurisdiction, as far south as the forty-sixth parallel of north latitude, over the strip of country south of their defined limits respectively.

When to take
effect.

SEC. 19. This act shall take effect and be in force from and after its passage and approval.

Approved, January 4, 1873.

CHAPTER 19.

AN ACT DEFINING THE BOUNDARIES AND NAMING COUNTIES
WEST OF THE MISSOURI RIVER.

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

SECTION 1. That the county of Todd shall be bounded as follows: Beginning at the intersection of the ninth guide meridian with the Missouri river; thence south on said guide meridian to the south boundary line of the Territory; thence east on said boundary line to its intersection with the Missouri river; thence up the main channel of said river to the northeast corner of the Fort Randall Military Reservation; thence on the east, south and west boundaries of said Reservation to the Missouri river; and thence up the main channel of said river to the point of beginning. Todd county.

SEC. 2. That the county of Gregory shall be bounded as follows: Beginning at the intersection of the Missouri river by township line between townships one hundred and one hundred and one; thence west on said township line to its intersection with the tenth guide meridian; thence south on said guide meridian to the south boundary line of the Territory; thence east on said boundary line to its intersection by the ninth guide meridian; thence north on said ninth guide to the Missouri river; and thence up the main channel of said river to the point of beginning. Gregory county.

SEC. 3. That the county of Lyman shall be bounded as follows: Beginning at the intersection of the Missouri river by the tenth guide meridian; thence south on said guide meridian to the northwest corner of Gregory county; thence east on the north line of said last named county to the Missouri river; and thence up the main channel of said river to the point of beginning. Lyman county.

SEC. 4. That the county of Tripp shall be bounded as follows: Beginning at the intersection of the township line between townships 102 and 103 with the eleventh guide meridian; Tripp county.

thence south on said meridian to the south boundary line of the Territory; thence east on said boundary line to its intersection by the tenth guide meridian; thence north on said last mentioned guide meridian to the township line first mentioned in this section; and thence west on said township line to the point of beginning.

Presho county. SEC. 5. That the county of Presho shall be bounded as follows: Beginning at the point on the Missouri river where the range line between ranges 79 and 80 intersects said river; thence south on said range line to the intersection with township line between townships 102 and 103; thence east on said last named line to its intersection with the tenth guide meridian; and thence north on said last named meridian to the Missouri river; and thence up the main channel of said river to the place of beginning.

Stanley county. SEC. 6. That the county of Stanley shall be bounded as follows: Beginning on the Missouri river where the same is intersected by the fourth standard parallel; thence west on said parallel to its intersection with the 12th guide meridian; thence south on said meridian to its intersection with the second standard parallel; thence east on said last parallel to the line between ranges 79 and 80; thence north on said range line to the Missouri river; and thence up said river to the point of beginning.

Rusk county. SEC. 7. That the county of Rusk shall be bounded as follows: Beginning at the point on the Missouri river where the same is intersected by the sixth standard parallel; thence west to its intersection with the 12th guide meridian; thence south on said guide meridian to the fourth standard parallel; thence east on said last parallel to the Missouri river; and thence up the main channel of said river to the place of beginning.

Boreman county. SEC. 8. That the county of Boreman shall be bounded as follows: Beginning at the point on the Missouri river where the same is intersected by the eighth standard parallel; thence west on said parallel to the 12th guide meridian; thence south on said meridian to the sixth standard parallel; thence east on said last parallel to the Missouri river; and thence up the main channel of said river to the place of beginning.

SEC. 9. That the county of Morton shall be bounded as follows: Beginning at the point on the Missouri river where the same is intersected by the tenth standard parallel; thence west on said parallel 12th guide meridian; thence south on said meridian to the eighth standard parallel; thence east on said last parallel to the Missouri river; and thence up the main channel of said river to the point of beginning. ^{Morton county.}

SEC. 10. That the county of Williams shall be bounded as follows: Beginning at the point on the Missouri river where the same is intersected by the 13th guide meridian; thence south on said meridian to the tenth standard parallel; thence east to the 12th guide meridian; thence north on said last guide meridian to the Missouri river; and thence up the main channel of said river to the point of beginning. ^{Williams county.}

SEC. 11. That the county of Howard shall be bounded as follows: Beginning on the Missouri river, where the same is intersected by the west boundary line of the Territory; thence south on said boundary line to the tenth standard parallel; thence east on said standard parallel to the thirteenth guide meridian; thence north on said last named meridian to the Missouri river; and thence up the main channel of said river to the place of beginning. ^{Howard county.}

SEC. 12. That the county of Mercer shall be bounded as follows: Beginning at the intersection between the second standard parallel and the twelfth guide meridian; thence south on said meridian to the line between townships 102 and 103; thence east on said last line to the eleventh guide meridian; thence north on said last meridian to the second standard parallel; and thence west on said last parallel to the place of beginning. ^{Mercer county.}

SEC. 13. That the county of Meyer shall be bounded as follows: Beginning at the intersection between the line dividing townships 102 and 103, and the twelfth guide meridian; thence south on said meridian to the south boundary line of the Territory; thence east on said boundary line to the eleventh guide meridian; thence north on said last meridian to the township line between townships 102 and 103; and thence west on said last line to the point of beginning. ^{Meyer county.}

SEC. 14. That the county of Pratt shall be bounded as follows: Beginning at the northwest corner of Presho coun- ^{Pratt county.}

ty; thence west on the second standard parallel to the twelfth guide meridian; thence south to the northwest corner of Meyer county; thence east on the north line of said last named county to the eleventh guide meridian; and thence north on said last meridian to the place of beginning.

When to take effect.

SEC. 15. This act shall take effect from and after its passage and approval.

Approved, January 8th, 1873.

CHAPTER 20.

AN ACT DEFINING THE BOUNDARIES OF PEMBINA COUNTY, AND CREATING NEW COUNTIES.

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

Pembina county.

SECTION 1. That all that district of country included within the following boundary lines, to-wit: Beginning at the northeast corner of the Territory of Dakota, on the forty-ninth parallel of north latitude; thence running west on said parallel of latitude to a point where the same is intersected by the eighth guide meridian; thence running south on said guide meridian to its intersection with the fourteenth standard parallel; thence running east on said fourteenth standard parallel to the western boundary line of the State of Minnesota; and thence northerly on the said boundary of said State to the point of beginning, shall be, and the same is hereby declared to be, and is constituted the county of Pembina; the county seat of which shall be and is hereby located at the town of Pembina, and the county and precinct officers elected for Pembina county, at the last election, who shall qualify according to law, shall be the county and precinct officers of Pembina county, save in such case where a vacancy in either of such offices may be created by the provisions of this act.

County precinct officers. and off.

in which case such vacancy shall be filled by appointment, by the majority of the board of county commissioners of said county.

SEC. 2. That all that district of country included within the following boundary lines, to-wit: Beginning at the south-east corner of Pembina county, as defined by section one of this act; thence west on the fourteenth standard parallel to its intersection with the eighth guide meridian; thence south on said eighth guide meridian to its intersection with the eleventh standard parallel; thence east on said eleventh standard parallel to the western boundary of the State of Minnesota; and thence north on said boundary line of Minnesota to the place of beginning, shall be, and the same is hereby constituted and made the county of Grand Forks; and the following named citizens of said county are hereby appointed the first county officers in and for said county, who shall qualify and hold their respective offices until their successors shall be elected and qualified, to-wit: For county commissioners, George Winship, John W. Stuart and Ole Thompson; for register of deeds, John J. Mullen; for judge of probate, Thomas Walsh; for sheriff, Nicholas Hoffman; for county attorney, John Fadden; for county assessor, O. S. Freeman; for coroner, E. B. Andrews; for county superintendent of public schools, O. S. Freeman, who shall qualify and give bonds as now provided by law respecting such officers; and the county commissioners shall divide said county into election precincts, and shall appoint two justices of the peace, and two constables for each election precinct so established, who shall qualify and give bonds as now provided for by law in relation to such officers; and who shall hold their respective offices until their successors shall be elected and qualified, and Alexander Griggs, M. L. McCormack and O. S. Freeman, are hereby named and appointed commissioners to locate the county seat of said county, who shall make their written report under oath to the county commissioners of said county.

SEC. 3. That all that district of country included within the following boundary lines, to-wit: Beginning at the south-east corner of Grand Forks county; thence west on the eleventh standard parallel; to its intersection with the west line of range fifty-five; thence south on said range line to its intersection with the ninth standard parallel; thence east on

said ninth standard parallel to the western boundary line of Minnesota; and thence north on said Minnesota boundary line to the place of beginning, shall be, and the same is hereby constituted and made the county of Cass; the county seat of which shall be, and is hereby located at Fargo, on the west bank of the Red River of the North, where said river is crossed by the Northern Pacific Railroad, and so soon as it shall be known that the Indian title to the lands in said county shall have been liquidated, then the lawful voters of said county, not less than fifty in number, may petition the Governor of the Territory, for an organization of said county, whereupon the Governor shall be authorized, and it is hereby made his duty to appoint from the lawful voters of said county, three county commissioners, a register of deeds, a sheriff, a judge of probate, a county attorney, a county surveyor, a county assessor, a county superintendent of public schools and a coroner; and such officers, after receiving their appointment, shall qualify and give bond as now provided by law in case of such officers; and they shall hold their respective offices until their successors shall be elected and qualified. The county commissioners shall appoint two justices of the peace, and two constables each, for one or more election precincts, to be by said commissioners established; and the justices and constables when so appointed, shall qualify and give bond as provided by law in case of such officers; and they shall hold their respective offices until their successors shall be elected and qualified.

Cass county defined, and county seat located.

SEC. 4. That all that district of country included within the following boundary lines, to-wit: Beginning at the southeast corner of Cass county; thence west on the ninth standard parallel to its intersection with the seventh guide meridian; thence south on said seventh guide meridian to its intersection with the township line between townships one hundred and twenty-nine and one hundred and thirty; thence east on said township line to the west boundary line of the State of Minnesota; thence on said State line, north, to the place of beginning, shall be, and the same is hereby constituted and made the county of Richland; the county seat of said county shall be, and it is hereby located at the town of Chahinkapa, on the northeast quarter, and the east half of the northwest quarter of section seven, and the north half of fractional sec-

tion eight, in township one hundred and thirty-two, north of range forty-seven, west of the fifth principal meridian. The county of Richland may be organized in like manner as provided in section three, for the organization of Cass county.

SEC. 5. That all that district of country included within the following boundary lines, to-wit: Beginning at the northwest corner of Cass county; thence west on the eleventh standard parallel to its intersection with the range line between ranges sixty-one and sixty-two; thence south on said range line to its intersection with the ninth standard parallel; thence east on said ninth parallel to the southwest corner of Cass county; and thence north on the west line of said county to the place of beginning, shall be, and the same is hereby constituted and made the county of Burbank, which may be organized in the manner provided by law, for the organization of new counties; and the first board of county commissioners of said county may locate the county seat of the same.

SEC. 6. That all that district of country included within the following boundary lines, to-wit: Beginning at the northwest corner of Burbank county; thence west on the eleventh standard parallel to its intersection with the range line between ranges sixty-nine and seventy; thence south on said range line to its intersection with the ninth standard parallel; thence east on said last mentioned parallel to the southwest corner of Burbank county; thence north on the west boundary line of said county to the place of beginning, shall be, and is hereby constituted and made the county of Stutsman; said county may be organized in the manner prescribed by law in the matter of organizing new counties; and after being so organized, Judson La Moure and A. H. Kelly are hereby appointed commissioners, who shall locate the county seat of said county at or near the point where the Northern Pacific Railroad crosses the James, or Dakota river; and who shall report in writing to the board of county commissioners of said county.

SEC. 7. That all that district of country included within the following boundary lines, to-wit: Beginning at the intersection of range line between ranges fifty-nine and sixty, with the ninth standard parallel; thence west on said parallel to its intersection with the ninth guide meridian; thence south on said meridian to its intersection with the township

line dividing townships one hundred and twenty-nine and one hundred and thirty; thence east on said last named line to its intersection with the eighth guide meridian; and thence north on said last named meridian to the place of beginning, shall be, and the same is hereby constituted and made the county of La Moure, which said county may be organized in like manner as provided in section six, for the organization of Stutsman county; and the county commissioners of said county may locate the county seat of said county.

~~Richland~~
county defined.

SEC. 8. That all that district of country included within the following boundary lines, to-wit: Beginning at the northwest corner of Richland county; thence west on the ninth standard parallel to its intersection with the eighth guide meridian; thence south on said last named meridian to its intersection with township line dividing townships one hundred and twenty-nine and one hundred and thirty; thence east on said last named line to the southwest corner of Richland county; thence north on the seventh guide meridian to the place of beginning, shall be, and the same is hereby constituted and made the county of Ransom; said county may be organized in like manner as provided in the last section, for the organization of La Moure county; and the county commissioners of said county may locate the county seat thereof.

Boundaries
in case a new
territory is or-
ganized.

SEC. 9. That in the event of a new Territory being hereafter formed out of the northern portion of the present Territory of Dakota, in that case the south line of said new Territory shall be the south line of the counties of Richland, Ransom, and La Moure.

How county
may be organ-
ized.

SEC. 10. That when the residents of Richland county shall desire to organize said county, under the provisions of section three, a petition signed by not less than fifty residents of said county, praying for an organization, shall be sufficient to warrant the Governor in appointing the necessary county officers to organize said county.

Conflicting
acts repealed.

SEC. 11. That all acts and parts of acts conflicting with the provisions of this act, pertaining to said counties, are hereby repealed.

When to take
effect.

SEC. 12. This act shall take effect from and after its passage and approval

Approved, January 4th, 1873.

COUNTY SEATS.

CHAPTER 21.

AN ACT RELATIVE TO THE RE-LOCATING OF COUNTY SEATS.

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

SECTION 1. Whenever a petition signed by at least fifty ^{When county commissioners to order an election.} (50) voters of the county asking that the county seat of any county shall be changed, is filed with the clerk of the board of county commissioners, forty days before a general election, then the election notice of the next general election shall give notice that a vote of the county will be taken on the question of re-locating the county seat, and if at said election any place other than the place where the county seat is held, shall have a two-thirds vote for said change, then the county seat shall be so changed but not otherwise.

SEC. 2. All laws so far as they conflict with this act are ^{Conflicting laws repealed.} hereby repealed.

SEC. 3. This act shall take effect and be in force from and ^{When to take effect.} after its passage and approval by the Governor.

Approved, January 10th, 1873.

GAMBLING.

CHAPTER 22.

AN ACT CONCERNING GAMBLING IN DAKOTA TERRITORY.

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

The keeping
of gambling ap-
paratus unlaw-
ful.]

SECTION 1. That it shall be unlawful for any person or persons to keep or exhibit any table or gambling apparatus of any kind or description, on which to bet money or property of any kind, in the Territory of Dakota.

Card playing.

SEC. 2. Any person or persons playing cards for money or property, in violation of this law will be dealt with according to the provisions of this law.

Penalty on
conviction.

SEC. 3. Any person violating this law, shall upon conviction, forfeit to the county or town in which the law was violated: all furniture or moveable apparatus within the establishment and shall be imprisoned in the county jail for not less than five (5) days, or more than twenty, or be fined not less than fifteen dollars (\$15.00) or more than one hundred (\$100.00), as the court may direct.

Person lose-
ing money to
make com-
plaint.

SEC. 4. Any person losing money by betting or other way, in conflict with this law, can make application to the constable, sheriff or police officer, and it shall be the duty of the officers to whom notice has been given to procure a warrant from the nearest justice of the peace and arrest the party against whom complaint has been made, and for fees, he shall be allowed double the amount as in a civil action.

SEC. 5. The county prosecuting attorney's fees shall be ^{Fees of law officers.} twenty-five dollars (§25.) for prosecuting each, or continuance of each and every case, but when the court fails to find judgment against the defendant, then shall the fees be at the usual rates as in civil cases.

SEC. 6. All acts and parts of acts in conflict with this act ^{Conflicting laws repealed.} are hereby repealed.

SEC. 7. This law shall take effect on and after its passage ^{When to take effect.} and approval by the Governor.

Approved, January 10th, 1873.

HERD LAW.

CHAPTER 23.

AN ACT TO AMEND SECTION 1 OF CHAPTER 23 OF THE SESSION LAWS OF 1870-1.

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

SECTION 1. That section 1 of chapter twenty-three (23) of the session laws of 1870-1, approved, January 9th, 1871, be ^{Provisions of herd law extended to meadow lands.} and the same is hereby amended by adding thereto the following: "This act shall also apply to meadow lands, *Provided*, That the boundaries of such lands shall be marked by plowed lines or substantial mounds or stakes set at such distances apart as that at least two mounds or stakes shall be seen at the same time, so as to clearly designate the lands kept for the purposes of meadow; but in case such lands are not des-

ignated by furrows, mounds or stakes as herein provided, then no action for trespass or damages shall be had for grazing on said lands;" *Provided, however,* That the county of Pembina shall, and is hereby exempted from the provisions of this bill, and also the act to which it is amendatory. *Provided further,* That the provisions of this act shall extend only to the 2nd and 6th council districts, and to no other portion of this Territory.

Pembina
county exempted.

Act to apply
to only a por-
tion of the Ter-
ritory.

Conflicting
laws repealed.

SEC. 2. All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

When to take
effect.

SEC. 3. This act shall take effect and be in force from and after its passage and publication.

Approved, January 8, 1873.

INDEX TO LAWS.

CHAPTER 24.

AN ACT TO PROVIDE FOR A SYNOPTICAL INDEX TO ALL THE LAWS IN FORCE IN DAKOTA TERRITORY.

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

A synoptical
index to be
published.

SECTION 1. That there shall be published with the laws of the present session of the Legislative Assembly of the Territory of Dakota, a synoptical index to all the laws in force in this Territory, in alphabetical order, giving the number *the number* of the session at which the law was passed. Also the

page of the volume. Said index shall not refer to any law or part of law which is or may be repealed at the close of the present session of the Legislative Assembly of the Territory of Dakota.

SEC. 2. This act shall take effect and be in force from and after its passage. When to take effect.

Approved, January 6th, 1873.

INTOXICATING LIQUORS.

CHAPTER 25.

AN ACT TO PROVIDE AGAINST THE EVILS RESULTING FROM THE SALE OF INTOXICATING LIQUORS IN THE TERRITORY OF DAKOTA.

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

SECTION 1. That it shall be unlawful for any person or persons, by agent, or otherwise, without first having obtained a license to sell in any quantity, intoxicating liquors, to be drunk in, upon, or about the premises where sold, or to sell such intoxicating liquors to be drunk in any adjoining room, building, or premises, or other place of popular resort connected with said building; *Provided*, That no person shall be granted a license to sell or give away intoxicating liquors, without first giving a bond to the municipality or authority authorized by law to grant licenses; which bond shall run in the name of the people of the Territory of Dakota, and be in

Selling liquor without license unlawful.

Liquor dealer to give bonds against damages from sale of liquor.

the penal sum of (\$3,000) three thousand dollars, with at least two good and sufficient securities, who shall be freeholders, conditioned that they will pay all damages to any person or persons which may be inflicted upon them, either in person or property, or means of support, by reason of the person so obtaining a license, selling or giving away intoxicating liquors; and such bond may be sued and recovered upon for the use of any person or persons, or their legal representatives, who may be injured by reason of the selling intoxicating liquors by the person or his agent so obtaining the license.

Unlawful to sell to minors.

SEC. 2. It shall be unlawful for any person or persons, by agent, or otherwise, to sell intoxicating liquors to minors, unless upon the written order of their parents, guardians, or family physicians, or to persons intoxicated, or who are in the habit of getting intoxicated.

Where intoxication is caused, party selling liable.

SEC. 3. Every person, who shall, by the sale of intoxicating liquors, with or without a license, cause the intoxication of any other person, shall be liable for and compelled to pay a reasonable compensation to any person who may take charge of and provide for such intoxicated person, and two dollars per day in addition thereto for every day such intoxicated person shall be kept in consequence of such intoxication: which sums may be recovered in action of debt before any court having competent jurisdiction.

Penalty for violating this act.

SEC. 4. For every violation of the provisions of the first and second sections of this act, every person so offending shall forfeit and pay a fine of not less than \$20, nor more than \$100.

Giving away, same as selling.

SEC. 5. The giving away of intoxicating liquors or other shift or device to evade the provisions of this act, shall be deemed and held to be an unlawful selling within the provisions of this act.

Real estate and personal property liable for fines.

SEC. 6. For the payment of all fines, costs and damages assessed against any person or persons, in consequence of the sale of intoxicating liquors, as provided in this act, the real estate and personal property of such person or persons, of every kind, shall be liable; and such fines, costs and damages shall be a lien upon such real estate until paid: and all the furniture, liquors, glasses, bottles and barrels in the cus-

body of any person selling spirituous liquors, shall be liable to seizure and sale to pay any fine or judgment against such person so selling spirituous liquors.

SEC. 7. This act shall take effect and be in force from and after the first day of July, A. D. 1873. When to take effect.

Approved, January 10th, 1873.

CHAPTER 26.

AN ACT TO PROHIBIT THE SALE OF INTOXICATING LIQUORS ON DAYS OF ELECTION.

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

SECTION 1. That it shall be unlawful for any person in this Territory, to sell, or give away, or dispose of any intoxicating liquors, on the day of any general or special election in this Territory. Unlawful to dispose of liquor on days of election.

SEC. 2. Any person offending against this act shall be guilty of a misdemeanor, and shall be punished by fine, not less than twenty-five dollars, nor exceeding one hundred dollars; and by imprisonment in the county jail not to exceed twenty days. One-half of said fine shall go to the informer, and the balance to the treasurer of the proper county, for the benefit of common schools. Penalty. Fine how disposed of.

SEC. 3. That this act shall take effect and be in force from and after its passage and approval by the Governor. When to take effect.

Approved, January 10th, 1873.

JUSTICES OF THE PEACE.

CHAPTER 27.

AN ACT TO DEFINE THE JURISDICTION OF THE COURTS OF JUSTICES OF THE PEACE.

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

Jurisdiction of justices.

SECTION 1. The justices courts of this Territory shall have exclusive jurisdiction of all misdemeanors committed in their respective counties, where the maximum punishment fixed by law does not exceed a fine of one hundred dollars, or imprisonment in the county jail for a period of thirty days, or both such fine and imprisonment; also, of all offenses under the laws of this Territory, where the penalty is not specially provided for.

Conflicting acts repealed.

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

When to take effect.

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

Approved, January 10th, 1873.

LAW LIBRARY.

CHAPTER 28.

AN ACT TO PROVIDE FOR THE SAFE KEEPING OF THE LAW LIBRARY OF THE TERRITORY OF DAKOTA.

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

United States Attorney to have charge of

SECTION 1. That the Secretary of the Territory be, and he is hereby authorized and directed to place in the charge of the United States Attorney for the Territory, all statutes, re-

ports and other legal works and documents, which may have heretofore been, or which may hereafter be furnished to this Territory, by the United States, or by any other State or Territory, for the use of the Territorial Library, the United States Attorney receipting to him for the same.

SEC. 2. It shall be the duty of the U. S. Attorney to plain-^{Duty of U. S. Attorney.}ly mark with ink on the outside of each volume so received by him, the words "Dakota Territory Law Library;" and all such volumes thus coming to his hands shall be kept in a suitable and convenient room, at the seat of government, accessible to all persons who may desire to refer to the same; and any volume may be removed temporarily for reference, upon receipting to the United States Attorney for the same.

SEC. 3. Upon the death, resignation, or removal of the United States Attorney, the law library shall be transferred^{Library in certain cases to be transferred.} to his successor in office.

SEC. 4. This act shall take effect and be in force from and^{When to take effect.} after its passage and approval.

Approved, December 28th, 1872.

PAUPERS.

CHAPTER 29.

AN ACT RELATIVE TO PAUPERS.

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

SECTION 1. If any person who shall bring and leave any pauper in any county in this Territory, wherein such pauper^{Penalty for bringing pauper into county.} is not lawfully settled, knowing such person to be a pauper.

the person bringing in such pauper, shall forfeit and pay the sum of one hundred dollars for every such offense, to be sued for and recovered by, and to the use of such county by action in the name of said county, before any court having jurisdiction of the same, and no property shall be exempt from seizure and sale in said cases, and it shall be the duty of the county commissioners of the several counties, to institute suits for all violations of this act, and said sum when collected shall be paid into the county treasury for the use of the county.

County commissioners to commence suits.

When to take effect.

SEC. 2. This act shall be in force from and after its passage.
Approved, January 6, 1873.

PERSONAL PROPERTY.

CHAPTER 30.

AN ACT RELATING TO CONDITIONAL SALES OF PERSONAL PROPERTY.

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

When conditions are not valid.

SECTION 1. That no condition in a sale of personal property shall be valid as against a subsequent innocent purchaser or incumbrancer, for a valuable consideration, where the party purchases of the person in actual possession, or where the party receives an incumbrance from the party in actual possession, unless a copy of the conditional sale, and a description of the property be filed with the register of deeds of the county in which the property is situated.

SEC. 2. This act shall take effect from and after its passage and approval. When to take effect.

Approved, January 6th, 1873.

PROOF OF DEEDS.

CHAPTER 31.

AN ACT RELATING TO THE PROOF, ACKNOWLEDGMENT AND RECORDING OF DEEDS, MORTGAGES AND OTHER INSTRUMENTS IN WRITING.

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

SECTION 1. The proof or acknowledgment of any deed, mortgage, or other instrument, may be made either within or without this Territory, and within the United States, before any public officer having an official seal, including notaries public, clerks of courts of record, and all other public officers, in addition to the ones mentioned in Article III, Chapter IV, of Title IV, of the laws of 1865-6. Officer before proof of deed to be taken.

SEC. 2. Whenever the proof or acknowledgment of any deed, mortgage, or other instrument is certified by a public officer having an official seal, under his hand and seal, it shall be a sufficient authentication of such instrument to entitle it to record; and such record shall have the same force and ef- When proof sufficient to entitle it to record.

fect as though such certificate was accompanied by the certificate provided in section 527, 528, or 529 of the civil code of 1865-6.

Officer prohibited from taking proof outside jurisdiction.

SEC. 3. Nothing herein contained shall be deemed or held to authorize the taking of proofs or acknowledgments of instruments by any officer outside of his jurisdiction, when the same is not now by law so authorized.

Married woman's acknowledgment.

SEC. 4. The acknowledgment of a married woman to an instrument may be taken the same as though she were unmarried; and no different certificate of such proof or acknowledgment shall be necessary.

Acknowledgments heretofore taken to be sufficient.

SEC. 5. The acknowledgment of instruments heretofore taken and certified in the manner, and before the officers herein specified, shall be sufficient to authorize their being recorded without other or additional certificates; and all records of instruments heretofore made in any of the counties of this Territory, the acknowledgment and certificate of which instruments are taken and certified by the officers, and in the manner herein provided, shall, from and after the taking effect of this act, have the same force and effect as though such certificates of acknowledgment were accompanied by the additional certificates heretofore required by law.

When to take effect.

SEC. 6. This act shall take effect and be in force from and after its passage and approval.

Approved, January 6th, 1873.

PROMISSORY NOTES.

CHAPTER 32.

AN ACT REGULATING PAYMENT OF PROMISSORY NOTES AND BILLS OF EXCHANGE.

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

SECTION 1. That on all bills of exchange, or drafts at sight whether foreign or domestic, the party or parties upon whom the same are drawn, shall have three days of grace after presentation for payment of same. (Holidays and Sundays not included.) Three days of grace on bills of exchange.

SEC. 2. That all promissory notes, bills of exchange and drafts on the face of which time is specified, three days of grace shall be granted (with aforesaid exceptions in section 1st) for payment of same. Three days of grace on notes.

SEC. 3. Notes due on demand, shall also be subject to three days of grace, after demand is made for payment of same. Same with notes on demands.

SEC. 4. All acts or parts of acts that interfere with the provisions of this act are hereby repealed so far as they conflict. Conflicting acts repealed.

SEC. 5. This act shall take effect from and after its passage and approval by the Governor. When to take effect.

Approved, January 6th, 1873.

PROBATE JUDGE.

CHAPTER 33.

AN ACT TO INCREASE THE COMPENSATION OF PROBATE JUDGE AND COUNTY TREASURER IN CERTAIN CASES.

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

County treas-
urer to receive
certain salary.

SECTION 1. That when on the assessment of the taxable property of a county, the tax levy to be collected in any one year amounts to a sum exceeding twenty thousand dollars, the probate judge and ex-officio county treasurer shall be paid a salary of six hundred dollars in addition to the amount now allowed by law.

When to take
effect.

SEC. 2. This act shall be in force from and after its passage and approval.

Approved, January 6th, 1873.

RAILROADS.

CHAPTER 34.

AN ACT TO PREVENT ACCIDENTS AT RAILROAD CROSSINGS.

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

SECTION 1. That it is hereby made the duty of each and every railroad company operating a line of road within this Territory, to erect suitable signs of caution at each crossing of their road with a public highway, which signs shall be painted with black roman, or block letters on white background, "railroad crossing, look out for the cars;" said letters to be at least eight inches in length, and proportionately broad; said signs shall be placed at the top of posts at least fifteen feet high.

Railroad company to erect signs at crossings.

SEC. 2. In case any such railroad company shall refuse or neglect, for the space of three months from the approval of this act by the Governor, to comply with the provisions of this act, it shall become the duty of the county commissioners of each county through which any such railroad shall be in operation in this Territory, to erect such signs as are herein specified, and the company so neglecting to comply with the provisions of this act, shall be liable for all expenses so incurred by said commissioners.

Commissioners of county to put up signs when.

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

When to take effect.

Approved, January 10th, 1873.

CHAPTER 35.

AN ACT AUTHORIZING THE TERRITORIAL TREASURER TO COLLECT THE TERRITORIAL TAX ON CERTAIN RAILROADS UNDER CERTAIN CIRCUMSTANCES.

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

Territorial
treasurer to
collect railroad
tax; when.

SECTION 1. That the Territorial treasurer be, and is hereby authorized to assess and collect the Territorial tax from all railroads in the Territory where the same shall pass through any unorganized county, or where for any cause the Territorial tax shall not have been assessed and collected on any railroad.

May collect
at any time.

SEC. 2. It shall be lawful to assess and collect such tax at any time from the first day of January to the thirty-first day of December.

Fee of treas-
urer.

SEC. 3. The treasurer shall have five per cent. for the assessment and collection of such taxes, for his services.

When to take
effect.

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

Approved, January 10th, 1873.

REVISION OF LAWS.

CHAPTER 36.

AN ACT TO PROVIDE FOR THE REVISION OF THE GENERAL LAWS OF DAKOTA TERRITORY.

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

SECTION 1. That C. J. B. Harris is hereby appointed a commissioner to revise the general laws of this Territory, including the laws passed at the present session, and prepare a compilation of the same, and report said compilation in the form of a bill to the next Legislature, also to prepare an index to said compilation. Commissioner appointed to revise laws and report.

SEC. 2. That said commissioner shall have the right to take from the Territorial library, such laws of this Territory as he may need to use in preparing said compilation. Shall have right to use Territorial laws

SEC. 3. That said commissioner is hereby authorized to report such addition to said laws as he may deem necessary to supply unintentional omissions, and to make them complete, also to omit such laws or parts of laws as have been rendered superfluous or unnecessary by subsequent legislation. Authorized to report additions.

SEC. 4. This act shall take effect and be in force from and after its passage and approval by the Governor. When to take effect.

Approved, January 8, 1873.

ROADS.

CHAPTER 37.

AN ACT TO ESTABLISH A TERRITORIAL ROAD FROM THE CITY OF YANKTON TO ROCKPORT, IN HANSON COUNTY, D. T.

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

Territorial road established from Yankton to Milltown

SECTION 1. That a Territorial road be, and is hereby established as follows, to-wit: The road shall consist of two branches, running from, by and to the points hereinafter mentioned. The road shall begin at the city of Yankton; then by the most direct and feasible route to or near Washington, as the commissioners may see fit; thence to branch, one road to run by the most direct and feasible route by way of Scotland, in Bon Homme county, to Milltown, in Hutchinson county. The other branch shall begin at or near Washington, Yankton county; thence by the most direct and feasible route by way of Maxwell City, in Hutchinson county, to Milltown, in Hutchinson county, where both branches shall intersect. And from Milltown, the said road shall be laid out over the most practicable route to Rockport, in Hanson county.

Commissioners appointed.

SEC. 2. That Frank B. Foster, of Hanson county; J. E. Maxwell, Jr., of Hutchinson county; C. F. Campbell, of Bon Homme county, and G. H. Wetmore, of Yankton county, be, and they are hereby appointed commissioners to lay out and establish said road.

Commissioners when to meet.

SEC. 3. It shall be the duty of said commissioners, or a majority of them, to meet at Yankton on or before the first day

of July, A. D. 1873, and proceed with a competent surveyor, to be employed by said commissioners, together with other necessary help, to locate and survey said road.

SEC. 4. The commissioners hereby appointed, and the surveyors chosen by them, shall receive for their services three dollars per diem while necessarily engaged in surveying, locating and marking said road; *Provided*, That the total expense shall not exceed twenty (\$20.00) dollars per day. Pay of commissioners.

SEC. 5. It shall be, and it is hereby made the duty of said commissioners to build solid square mounds, which shall not be less than three feet in diameter at the base, and one at the top, four feet high, and so situated that two of said mounds shall be visible in either direction from any one mound along the whole road. Commissioners to build mounds.

SEC. 6. The expenses incurred in surveying, marking and establishing said road, shall be paid by the several counties through which said road shall pass, in proportion to the distance and time employed in locating said road through such counties respectively. Expenses how paid.

SEC. 7. Said commissioners shall make a report of the location and cost of locating and establishing said road, and cause a copy of the same to be filed in the office of the Secretary of the Territory, on or before the first day of August next. And it shall be the duties of the said commissioners to file in the office of the register of deeds in each county through which said road shall pass, a plat of so much of said road as is contained within the limits and boundaries of each county respectively. Reports to be made and filed.

SEC. 8. This act shall take effect and be in force from and after its approval by the Governor. When to take effect.

Approved, January 8th, 1873.

CHAPTER 38.

AN ACT TO LAY OUT AND ESTABLISH A TERRITORIAL ROAD
FROM YANKTON TO MEDARY, IN BROOKINGS COUNTY.

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

Commission-
ers appointed
to locate road.

Route of road

SECTION 1. That Carl C. P. Meyer, J. F. Dowling and B. E. Pay, be, and they are hereby appointed commissioners to locate and establish a Territorial road from Yankton, in the county of Yankton, via Walshtown, Childstown and Wicklow, to Medary, in Brookings county, Dakota Territory, commencing at a point on the eastern boundary of the city of Yankton, where the Sioux City stage road intersects said boundary; thence along said stage road to a point east of the James river bridge, where the section line between section (34) thirty-four, and (35) thirty-five intersects said road; thence north on said section line to Childstown, in Turner county; thence northeast to a point on the Vermillion river, near the center of township one hundred and three (103) range (53) fifty-three; thence northeast to intersect the section line between section (7) seven and (8) eight, in township one hundred and five (105) range fifty-one (51) at a point where those sections form a junction with section seventeen (17) and eighteen (18); thence north on said section line to the south boundary of township one hundred and six (106); thence north and northeast through the town of Wicklow, as the commissioners may see fit, to the north line of section thirty-two (32), at a point twenty (20) chains west of the quarter ($\frac{1}{4}$) stake between sections thirty-two (32), and twenty-nine (29); thence in a northeasterly direction in the most direct and practicable route to Medary; thence in a northerly direction to Big Stone Lake, Sisseton, Richville to Breckenridge. This road being an established mail route, being established by the last session of Congress.

SEC. 2. It shall be the duty of said commissioners, or a majority of them to meet at the city of Yankton on the first day of June, A. D. 1873, and proceed to locate said road, and those commissioners that are present at such meeting shall have full power to file said commission, and shall proceed without delay to locate the same, and make, and plot, and file the same in the office of the register of deeds in the several counties through which said road passes, or if one or more counties through which it passes are not organized, then with the register of deeds in the county to which it is attached for election purposes, and said commissioners shall have from the first of June to the twentieth of July thereafter, to complete the location of said road.

When to meet
and how to pro-
ceed.

SEC. 3. The said commissioners shall have full power to appoint substitutes, who shall have in all respects the same powers, rights and privileges, and whose duty shall be the same as the commissioners herein named.

May appoint
substitutes.

SEC. 4. Said commissioners shall have power to employ all necessary help to assist them in the location of said road, and all parties employed as well as the commissioners, shall be payed at the rate of three dollars (\$3.00) per day, while necessarily employed in said location; *Provided*, That the total expense shall not exceed twenty-five (\$25.00) dollars per day.

Power and
compensation
of commission-
ers.

SEC. 5. It shall be and it is hereby made the duty of said commissioners, to build solid square mounds, which shall not be less than three feet in diameter at the base, and one foot at the top; the sides of said mounds to be straight and not less than four feet high, so situated that two mounds shall be visible in either direction from any mound on the whole route.

Commission-
ers to build
mounds.

SEC. 6. The expenses incurred in locating said road shall be paid by the respective counties through which said road shall pass, in proportion to the amount incurred within each county.

Expenses
how paid.

SEC. 7. This act shall take effect immediately upon its passage and approval by the Governor.

When to take
effect.

Approved, January 2nd, 1873.

CHAPTER 39.

AN ACT TO LAY OUT AND ESTABLISH A TERRITORIAL ROAD
FROM SIOUX FALLS TO YANKTON.

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

Name of com-
missioner.

SECTION 1. That O. B. Iverson, of the county of Minnehaha, be, and is hereby appointed commissioner to lay out and establish a Territorial road from the townsite of Sioux Falls, in Minnehaha county, to the south line of said county, at a point at or near the southeast corner of section thirty-two, (32) township one hundred and one, (101) range forty-nine, (49) to connect with a section of the Sioux Falls and Yankton Territorial road hereinafter described and established.

Road, where
located.

SEC. 2. That all that portion or section of the Sioux Falls and Yankton Territorial road hereinafter described, be, and the same is hereby laid out and established, to-wit: Commencing at or near the southeast corner of section thirty-two, (32) in township one hundred and one, (101) range forty-nine, (49) thence south thirty-three degrees (33°) west, one hundred and seventy-two (172) chains; thence south thirty-five (35°) degrees west to the north line of section three, (3) town ninety-seven, (97) range fifty-two (52); thence west on said section line to the northwest corner of said section; thence south on a line between sections three (3) and four, (4) and nine (9) and ten, (10) to the center of a public highway in Turner City, known as Armstrong avenue; thence west on said avenue to the section line between sections eight (8) and nine (9); thence south along said section line to the northeast corner of section twenty (20); thence west forty chains; thence south thirty-seven (37° 30') west nine hundred and fifty-four (954 35-100) chains to a point on the east line of the county of Yankton at or near the east quarter post in section one, town ninety-five, (95) range fifty-four (54).

SEC. 3. That Peter H. Turner, of Turner county, and J. V. Bunker, of Yankton county, be, and they are hereby appointed commissioners to lay out and establish so much of the Sioux Falls and Yankton road hereby provided for, as lies in the county of Yankton; to commence at the point of termination mentioned in the last preceding section, to-wit: At or near the quarter post in the east line of section one, township ninety-five, (95) range fifty-four, (54) and running thence on the most direct and feasible route to the bridge across Clay Creek at or near the section line between sections twenty-eight (28) and thirty-three, (33) in township ninety-five, (95) range fifty-four, (54) and thence by the line of road already laid out and established by the commissioners of Yankton, to the city of Yankton.

Names of commissioners, and where to locate road.

SEC. 4. That the said commissioners appointed by the last preceding section, shall certify that portion of the said road laid by them, to the register of deeds of the county of Yankton; and that the county of Yankton shall pay the said commissioners for their services; and all expenses incurred by reason of such laying out and establishing said road in the county of Yankton.

Commissioners to certify portion of road.

SEC. 5. That the commissioner appointed by the first section of this act shall certify that portion of the said road laid by him in Minnehaha county, to the register of said county; and that said county shall pay said commissioner for his services, three (\$3.00) dollars per day, for time actually and necessarily spent; and all expenses incurred by reason of laying out and establishing said road in the county of Minnehaha.

Commissioners to certify portion of road.

SEC. 6. That J. V. Bunker and Peter H. Turner, or either of them, are hereby appointed to plot the whole of said Sioux Falls and Yankton Territorial road, according to the laying out thereof by the commissioners herein appointed, and the courses and distances given as the route in section two, (2) of this act, and to file a plot of said road in the office of the Secretary of the Territory; and also to certify to the register of deeds of the counties of Lincoln, Turner and Clay, so much of the said road that lies in said counties respectively, for which services the several counties through and which said road is laid, shall pay *pro rata* in accordance with the length of said road in each.

Names of persons and their duty to plot road.

When duties
to be performed

SEC. 7. The duties hereby imposed on the commissioners hereby appointed, shall be performed by the first day of June next; and the duties imposed upon the said Bunker and Turner, shall be performed by the first day of July next.

When to take
effect.

SEC. 8. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, December 28th, 1872.

CHAPTER 40.

AN ACT TO LOCATE AND ESTABLISH A TERRITORIAL ROAD FROM CANTON TO BLOOMINGDALE, D. T.

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

Names of
commissioners,
and how to lo-
cate road.

SECTION 1. That C. L. Gardner and N. Hanson and James McHenry, be, and they are hereby appointed commissioners to locate and establish a Territorial road from Canton, Lincoln county, D. T., via the main traveled road, so far as the same may be direct and practicable, to Bloomingdale, in Clay county, D. T.

When to
meet, and how
to proceed.

SEC. 2. It shall be the duty of the said commissioners to meet at Bloomingdale, on the tenth day of May next, and proceed to locate said road; but in case a majority of said commissioners do not meet as herein provided, it shall be the duty of those present at such meeting, to file said commission, and shall proceed without delay to survey, locate and plat said road, and file said plat in the office of the registers of deeds of the several counties through which said road passes, or to which the same may be attached for election purposes; and said commissioners shall have from the tenth day of May aforesaid, to the first day of July thereafter, to complete the location and establishment of said road.

SEC. 3. The said commissioners shall have full power to ap- Powers of
commissioners
point substitutes, who shall, in all respects, possess the same
powers, rights and privileges; and whose duties shall be the
same as the commissioners herein named.

SEC. 4. Said commissioners shall have power to employ all Powers and
compensation.
necessary help for the location and establishment of said
road; and shall be paid at the rate of three dollars per day
each, while necessarily employed in making said location,
plat and survey.

SEC. 5. The expenses incurred in locating, surveying, mark- Expenses,
how paid.
ing and staking and filing as aforesaid, shall be paid by the
respective counties through which, or into which said road
shall pass, in proportion to the amount incurred within the
boundaries of the same.

SEC. 6. This act shall take effect and be in force from and When to take
effect.
after its passage and approval by the Governor.

. Approved, January 6th, 1873.

CHAPTER 41.

AN ACT TO LAY OUT AND ESTABLISH A TERRITORIAL ROAD FROM CANTON, LINCOLN COUNTY, D. T., TO MAXWELL CITY, HUTCHINSON COUNTY, D. T.

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

SECTION 1. That John H. Holsey, C. B. Valentine and John Names of
commissioners,
and where to
locate.
Maxwell, Sen., of Hutchinson, be, and they are hereby ap-
pointed commissioners to lay out and establish a Territorial
road from Canton, Lincoln county, to Maxwell City, Hutchin-
son county, D. T., as follows: Commencing at a point where
the Territorial road, as now located from Canton, Lincoln

county, D. T., via Lodi, Clay county, D. T., crosses the section line between sections twenty-eight and thirty-three, (33) township ninety-eight, range fifty; thence southwest along said Territorial road, to a point where said Territorial road crosses the section line between sections six and seven, [in township ninety-seven, range fifty; thence west along said section line to the northeast corner of section nine, in township ninety-seven,] range fifty-two; thence south to the center of a public highway in Turner city, known as Armstrong avenue; thence west along said Armstrong avenue to the west line of the southeast quarter of section seven, township ninety-seven, range fifty-two; thence by the most direct route to Swan Lake; thence in a northwesterly direction by the most direct and practicable route to Childstown, in Turner county; thence in a southwesterly direction by the most direct and practicable route, to Maxwell City, in Hutchinson county, D. T.

When to meet
&c.

SEC. 2. It shall be the duty of said commissioners, or a majority of them, to meet at Canton on or before the 10th day of May next, and proceed with a competent surveyor, to be employed by said commissioners, together with other necessary help, to locate and survey said road.

Expenses
how and
whom paid. by

SEC. 3. The expenses incurred in surveying, marking and establishing said road, shall be paid by the several counties through which said road shall pass, in proportion to the distance and time employed in locating said road through such counties respectively.

Compensa-
tion.

SEC. 4. The commissioners hereby appointed, and the surveyor by them employed, shall each be entitled to receive three dollars per day while necessarily engaged in surveying, locating and marking said road.

Commission-
ers to make and
file report.

SEC. 5. Said commissioners shall make a report of the location and cost of said road, and cause a copy of the same to be filed in the office of the Secretary of the Territory, on or before the first day of July, 1872; and it shall also be the duty of said commissioners to file in the office of the register of deeds in each county through which said road shall pass, a plat of so much of said road as is contained within the limits and boundaries of each county respectively.

When to take
effect.

SEC. 6. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, January 6th, 1873.

CHAPTER 42.

AN ACT TO LOCATE AND ESTABLISH A TERRITORIAL ROAD
FROM SIOUX FALLS TO WHITE EARTH RIVER AND FORT
THOMPSON, VIA ROCKPORT, HANSON COUNTY, D. T.

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

SECTION 1. That N. W. Phillips, E. S. McCook, J. D. Flick and H. F. Livingston, be, and they are hereby appointed commissioners to locate and establish a Territorial road, from Sioux Falls, in Minnehaha Co., D. T.; thence westerly on township line between 101 and 102, as near as practicable through said county of Minnehaha, McCook and Hanson, to Rockport, on the James or Dakota river and Firesteel; thence westerly through Cragin and Buffalo counties, to the mouth of White river, also a branch road commencing at Rockport on the main line between Rockport and the mouth of White Earth river; thence northwesterly to Ft. Thompson.

Names of
commissioners,
and how to lo-
cate road.

SEC. 2. It shall be the duty of said commissioners or a majority of them, to meet at Rockport, in the county of Hanson, on the tenth day of June, A. D. 1873, and proceed to locate said road. But in case a majority of said commissioners do not meet as herein provided, it shall be the duty of those present at such meeting, and they shall have full power to fine said commissioners, and proceed without delay to locate the same, and make plat and file same in the office of the register of deeds of the several counties through which said road passes, or to which the same may be attached for election purposes, and said commissioners shall have from the 10th day of June, aforesaid, to the 10th day of August therefrom, to complete the location and establishment of said road.

When to meet
and how to pro-
ceed.

SEC. 3. The said commissioners shall have full power to appoint substitutes, who shall in all respects possess the same powers, rights and privileges, and whose duties shall be the same as the commissioners herein named.

Have power
to appoint sub-
stitutes

SEC. 4. Said commissioners shall have power to employ all necessary help for the location and establishment of said road, and shall be paid at the rate of three dollars per day and expenses, while necessarily employed in making said location.

Commission-
ers have power
to employ help,
compensation.

Expenses,
how paid.

SEC. 5. The expenses incurred in locating, surveying, marking, and staking and filing as aforesaid, shall be paid by the respective counties through which said road shall pass in proportion to the amount incurred within the same.

When to take
effect.

SEC. 6. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, January 8th, 1873.

CHAPTER 43.

AN ACT TO ESTABLISH A TERRITORIAL ROAD FROM SPRINGFIELD, BON HOMME COUNTY, DAKOTA, TO FIRESTEEL, HANSON COUNTY, D. T.

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

Who appointed
commissioners,
and manner of
locating
road.

SECTION 1. That H. C. Davison, of Hanson county, and B. H. Wood, of Bon Homme county, Dakota Territory, be, and are hereby appointed commissioners to lay out and establish said road, commencing at Springfield; *and* and thence by the most practicable route to Marshton, in section 6, township 13, range 60 west; thence north on section line between sections 5 and 6, to Firesteel, Hanson county, Dakota Territory.

When to meet
and compensation.

SEC. 2. Said commissioners on the first day of June, or as soon thereafter as possible, shall meet at Springfield, and employ suitable persons to assist to lay out, mark, and establish said road. Said commissioners shall receive for their services three dollars per day, and their help shall receive reasonable compensation for such time as employed by them on said road, and the several counties through which said road shall pass, shall pay *pro rata*, the expenses of said road. Said road shall be plotted, and a plot filed with the register of deeds of

the several counties in which the road may run, on or before the twentieth day of July, eighteen hundred and seventy-three.

SEC. 3. This act shall take effect and be in force from and after its passage and approval. ^{When to take effect.}

Approved. January 9th, 1873.

CHAPTER 44.

AN ACT TO LOCATE AND ESTABLISH A TERRITORIAL ROAD FROM ROCKPORT, IN HANSON COUNTY, VIA WICKLOW AND FLANDREAU, TO MINNESOTA STATE LINE.

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

SECTION 1. That John Cunningham, F. B. Foster and Eugene R. Newhall, be, and they are hereby appointed commissioners to locate and establish a Territorial road from Rockport, in Hanson county; thence northeast to intersect a like road from Yankton to Breckenridge, Minnesota, where said road crosses the Vermillion river; in town one hundred and three, (103) range 53; thence on said road to a point where it crosses the section line running east, between sections 18 and 24, in town 107, range 50; thence east on said line, if practicable, by Flandreau, to intersect the line of the State of Minnesota, at a point near section 14, town 107, range 47. Said line is a mail route, having been established by the last session of Congress. ^{Names of commissioners, and where to locate road.}

SEC. 2. It shall be the duty of said commissioners, or a majority of them, to meet at Rockport on the first day of July, 1873, and proceed to locate said road; and those commissioners that are present at such meeting shall have full power to proceed and locate without delay said road, and make and plat and file the same in the office of the register of deeds of the several counties through which said road passes: and if ^{When to meet, and how to proceed.}

one or more counties through which it passes are not organized, then with the register of the counties that it is attached to for election purposes; and said commissioners shall have from the first day of July to the first of September thereafter, to complete the location of said road.

May appoint
substitutes.

SEC. 3. The said commissioners shall have power to appoint substitutes, who shall have, in all respects, the same rights, powers and privileges; and whose duty shall be the same as the ones herein named.

Pay of com-
missioners.

SEC. 4. Said commissioners shall have power to employ all necessary help; but the total expenses shall not exceed \$20.00 per day, and shall be paid at the rate of \$3.00 per day each, while necessarily employed in said location.

Expenses
how paid.

SEC. 5. Said expenses shall be paid by the counties through which the road runs.

When to take
effect.

SEC. 6. This act shall be in full force from and after its passage and approval by the Governor.

Approved, January 9th, 1873.

CHAPTER 45.

AN ACT TO LOCATE AND ESTABLISH A TERRITORIAL ROAD FROM SHA-HIN-KAPA, RICHLAND COUNTY, TO OSWEGO, RANSOM COUNTY, D. T.

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

Who appoint-
ed commission-
ers, and man-
ner of locating
road.

SECTION 1. That J. W. Blanding, D. Wilnot Smith, J. Q. Burbank, be, and they are hereby appointed commissioners to locate a Territorial road as follows, to-wit: Beginning at southeast corner of the county seat of Richland county; thence west along the south boundary of said county seat; thence on the most direct and practical route to Oswego.

SEC. 2. It shall be the duty of said commissioners, or a majority of them, to meet at the house of J. W. Blanding, on or before the first day of June, A. D. 1873, and proceed with the necessary help, to locate said road. ^{When to meet &c.}

SEC. 3. The expenses incurred in surveying, marking and establishing said road, shall be paid by the county of Richland when it becomes an organized county. The commissioners shall each be entitled to receive three dollars per day while necessarily engaged in surveying and locating the same. ^{Expenses how paid.}

SEC. [4] 5. Said commissioners shall make report of location and cost of said road, and cause a copy of the same to be filed in the office of the Secretary of the Territory, on or before the first day of July, A. D. 1873. ^{Commissioners to make and file report.}

SEC. [5] 6. This act shall take effect and be in force from and after its passage and approval. ^{When to take effect.}

Approved, January 8, 1873.

CHAPTER 46.

AN ACT TO LAY OUT AND ESTABLISH A TERRITORIAL ROAD FROM PEMBINA TO ST. JOSEPH, IN PEMBINA COUNTY.

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

SECTION 1. That Judson La Moure, Charles Bottineau and George W. Reed, be, and [are] hereby appointed commissioners to locate and establish a Territorial road from Pembina to St. Joseph, in the county of Pembina, Territory of Dakota, commencing at the western terminus of Stutsman street, in the town of Pembina; thence in a westerly direction, to Smugglers Point, via Bottineau, Dease, Gengras, to St. Joe, in township 163, north range 56 west of the fifth principal meridian. ^{Names of commissioners, and how to locate road.}

When to meet
and how to pro-
ceed.

SEC. 2. It shall be the duty of the commissioners or a majority of them, to meet at the town of Pembina, on the first day of June, A. D. 1873, to proceed to locate said road, and those commissioners that are present at such meeting, shall have full power to file said commission, and shall proceed without delay to locate the same, and make, and plot, and file the same in the office of the register of deeds, in the county of Pembina.

Have power
to appoint sub-
stitutes.

SEC. 3. The said commissioners shall have full power to appoint substitutes, who shall have in all respects the same powers, rights and privileges, and whose duty shall be the same as the commissioners herein named.

Commission-
ers have power
to employ help,
compensation.

SEC. 4. Said commissioners shall have the power to employ all necessary help to assist them in the location of said road, and all parties employed as well as the commissioners, shall be paid at the rate of three dollars per day while necessarily employed in said location.

Expenses
how paid.

SEC. 5. The expenses incurred in locating said road, shall be paid by the county of Pembina.

When to take
effect.

SEC. 6. This act shall take effect from and after its passage and approval.

Approved, January 6th, 1873.

SALARIES.

CHAPTER 47.

AN ACT TO INCREASE THE SALARY OF THE TREASURER AND AUDITOR OF THE TERRITORY OF DAKOTA.

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

SECTION 1. That the salary of the Treasurer and Auditor ^{Salary of} of the Territory of Dakota, shall be two hundred dollars ^{treasurer and} each per annum. ^{auditor.}

SEC. 2. This act shall take effect and be in force from and ^{When to take} after its passage and approval by the Governor. ^{effect.}

Approved, January 10th, 1873.

SURETIES.

CHAPTER 48.

AN ACT RELATIVE TO SURETIES.

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

SECTION 1. No practicing attorney shall be a surety in ^{Attorneys not} any suit or proceeding which may be instituted in any of the ^{in execution} courts of this Territory.

Penalty. SEC. 2. Any attorney who shall violate the provisions of section first of this act, shall be liable to fine or imprisonment, or both, at the discretion of the court.

When to take effect. SEC. 3. This act shall take effect and be in force from and after its passage.

Approved, January 6th, 1873.

SURVEYORS.

CHAPTER 49.

AN ACT TO APPOINT DEPUTY COUNTY SURVEYORS IN THE TERRITORY OF DAKOTA.

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

Deputy surveyors may be appointed. SECTION 1. That the county surveyors of each county in this Territory, be, and are hereby authorized to appoint a deputy, who shall be governed in every respect as the county surveyor.

Deputy to receive same compensation as principal. SEC. 2. The deputy who may be so appointed, shall hold his office *during* during the pleasure of the county surveyor, shall receive the same fees, pay and allowances, as the county surveyor, and his certificate and work as performed, shall be as binding in law in every respect as the county surveyor.

Conflicting laws repealed. SEC. 3. All laws and parts of laws incompatible with this law are hereby repealed.

When to take effect. SEC. 4. This law to take effect on and after the first day of January, A. D. 1873.

Approved, January 6th, 1873.

TIMBER.

CHAPTER 50.

AN ACT TO ENCOURAGE THE GROWTH OF TIMBER AND TREES ALONG SECTION LINE ROADS.

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

[SECTION 1.] That all section line roads being 4 rods in width, it is hereby enacted that any person or persons claiming any lands along said section line roads, shall have the right of occupying and taking possession (to the exclusion of all others) one rod in width, of said roads, fronting or along their said property, and to control said rod in width as if it were their own property, for the purpose of cultivating the growth of timber and trees thereon; *Providing*, And it is hereby enacted, that said owners or occupiers can have no vested rights in said rod in width, unless they continuously keep said space of land in good order, and under full tree cultivation.

Parties may cultivate timber along section line roads.

[SEC. 2.] All acts and parts of acts in conflict with this act, are hereby repealed.

Conflicting laws repealed.

[SEC. 3.] This act shall take effect from and after its passage and approval.

When to take effect.

Approved, January 9th, 1873.

TOWNSHIPS.

CHAPTER 51.

AN ACT TO ESTABLISH A SYSTEM OF TOWNSHIP GOVERNMENT FOR THE TERRITORY OF DAKOTA.

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

Manner of
proceeding to
organization.

SECTION 1. Whenever the majority of legal voters of any congressional township in this Territory, containing ten legal voters, petition the board of county commissioners to be organized as a town, under this chapter, said board shall forthwith proceed to fix and determine the boundaries of such new town and to name the same; and said board shall make a full report of all their proceedings in relation to laying off said town, and file the same with the register of deeds.

When town-
ships may be
divided, attach-
ed, &c.

SEC. 2. A township may be attached by said commissioners to an adjoining town, or divided between two or more towns, or organized separately, according to the wishes of a majority of the legal voters to be affected thereby; and when rivers and creeks so divide a township as to make it inconvenient to do town business, the fraction so formed may be attached to other townships; and any township having two or more villages or cities, each containing two hundred or more inhabitants, may petition the county commissioners for a division; and whenever the county commissioners are so petitioned, they may, if they think the interests of such town will be subserved thereby, proceed to divide such township in such manner as will best suit the convenience of the people.

SEC. 3. Towns thus formed shall be named in accordance with the expressed wish of a majority of the legal voters resident therein, but if they fail to so designate the name, the county commissioners may select a name. Towns, how named.

SEC. 4. The county commissioners shall thereupon make out notices designating a suitable place for holding the first town meeting in each town, which shall be holden within twenty days after said town is organized; and the register of deeds shall deliver such notice to the sheriff of the county, who shall cause the same to be posted in each township, not less than ten days before the day set for such town meeting. Notices to be made out and posted.

SEC. 5. Each register shall, within thirty days after such town is organized, transmit by mail to the auditor of [the] Territory, an abstract of such report, giving the bounds of each town and the name designated; and said county register shall record, in a book for that purpose, a full description of each town. Register of deeds to make report to auditor.

SEC. 6. If the auditor of the Territory, on comparing the abstract of reports from several counties, finds that any two or more townships have the same name, he shall transmit to the register of the proper county, the name of the town to be altered; and the board of commissioners shall, at the next meeting thereafter, adopt for such town, some name different from those heretofore named, so that no two towns organized under this chapter shall have the same name; and when such name is adopted, the register of the county shall inform the Territorial auditor as before directed. Where auditor finds two towns of same name.

SEC. 7. The limits and boundary lines of every organized township shall remain as now established until otherwise provided by the board of county commissioners under the authority of law. Boundary lines of towns.

SEC. 8. Each town is a body corporate, and has capacity: Powers of town.

First. To sue and be sued. To sue.

Second. To purchase and hold lands within its own limits, and for the use of its inhabitants, subject to the powers of the Legislature. To purchase lands.

Third. To make such contracts, purchase and hold such personal property as may be necessary for the exercise of its corporate or administrative powers. To make contracts, &c.

To make orders, for use of its property.

Fourth. To make such orders for the disposition, regulation or use of its corporate property as may be deemed conducive to the interests of its own inhabitants.

Certain powers prohibited.

SEC. 9. No town shall possess or exercise any corporate powers except such as are enumerated in this chapter, or are especially given by law, or necessary to the exercise of the powers so enumerated or granted.

Proceedings in name of town.

SEC. 10. All acts or proceedings by or against a town in its corporate capacity, shall be in the name of such town; but every conveyance of lands within the limits of such town, made in any manner for the use or benefit of its inhabitants, has the same effect as if made to the town by name.

Manner of holding town meeting.

SEC. 11. The citizens of the several towns of this Territory, qualified to vote at general elections, shall annually assemble and hold town meetings in their respective towns, on the first Tuesday of April, at such place in each town as the electors thereof, at their annual town meetings, from time to time, appoint, and notice of the time and place of holding such meeting, shall be given by the town clerk, by posting up written or printed notices in three of the most public places in said town, at least ten days prior to said meeting.

Town clerk to give notice of election.

Officers to be elected.

SEC. 12. There shall be elected at the annual town meeting in each town, three supervisors, one of whom shall be designated on the ballots as chairman, one town clerk, one treasurer, one assessor, two justices of the peace, two constables, and one overseer of highways for each road district in said town; but justices of the peace and constables shall be elected only once in two years, except to fill vacancies.

Fence-viewers.

SEC. 13. The assessor and supervisors elected in every town are by virtue of their office, fence-viewers of such town.

Powers of electors.

SEC. 14. The electors of each town [shall] have power at their annual town meeting:

Pounds and pound masters.

First. To determine the number of pound masters, and the location of pounds.

Town officers.

Second. To select such town officers as are required to be chosen.

Legal actions.

Third. To direct the institution or defence of actions, in all controversies where such town is interested.

Fourth. To direct such sums to be raised in such town for prosecuting or defending such actions as they may deem necessary. Raising money.

Fifth. To make all rules and regulations for ascertaining the sufficiency of fences in such towns, and for impounding animals. Fences.

Sixth. To impose such penalties on persons offending against any rule or regulation established by said towns, except such as relate to the keeping and maintaining of fences, as they think proper, not exceeding ten dollars for each offense, unless herein otherwise provided. Penalties for offenders.

Seventh. To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the town. Application of penalties.

Eighth. To vote to raise such sums of money for the repair and construction of roads and bridges, for the support of the poor, and for other necessary town charges, as they deem expedient: *Provided*, That they may, at their annual town meeting, direct such an amount of the poll and road tax of the town to be expended on the highways in an adjoining township as they deem conducive to the interests of the town: which labor and tax shall be expended under the direction of the supervisors of the town furnishing the same. To raise money.

SEC. 15. Special town meetings may be held for the purpose of electing town officers to fill any vacancies that occur, also for the purpose of transacting any other lawful business, whenever the supervisors, town clerk, and justices of the peace, or any two of them, together with at least twelve other freeholders of the town, file in the office of the town clerk a written statement, that a special meeting is necessary to the interests of the town. Special meetings may be held.

SEC. 16. Every town clerk with whom such statement is filed, as required in the preceding section, shall record the same, and immediately cause notice to be posted up in five of the most public places in the town, giving at least ten days' notice of such special meeting; and if there is a newspaper printed in said town, he shall cause a copy of said notice to be published therein at least three days before the time appointed for such meeting. Town clerk to have notices posted of special meetings.

Notice to specify purpose of special meeting.

SEC. 17. Every notice given for a special town meeting shall specify the purpose for which it is to be held, and no other business shall be transacted at such meeting than such as is specified in such notice. If vacancies in office are to be filled at such meeting, the notices shall specify in what offices vacancies exist, how they occurred, who was the last incumbent, and when the legal term of each office expires.

Hour of meeting and proceedings how conducted.

SEC. 18. The electors present at any time between nine and ten o'clock in the forenoon of the day of the annual town meeting, or special town meeting, shall be called to order by the town clerk, if there is one present; in case there is none present, then the voters may elect, by acclamation, one of their number chairman. They shall then proceed to choose one of their number to preside as moderator of such meeting. The town clerk last before elected shall be clerk of the meeting, and keep faithful minutes of its proceedings, in which he shall enter, at length, every order or direction, and all rules and regulations made by such meeting. If the town clerk is absent, then such person as shall be elected for that purpose shall act as clerk of the meeting.

Proceedings of town meeting, how conducted.

SEC. 19. At the opening of every town meeting, the moderator shall state the business to be transacted, and the order in which it shall be entertained, and no proposition to vote a tax shall be acted on out of the order of business as stated by the moderator, and no proposition to reconsider any vote shall be entertained at any town meeting, unless such proposition to reconsider is made within one hour from the time such vote was passed, or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the poll list at such election up to the time such motion is made; and all questions upon motions made at town meetings shall be determined by a majority of the electors voting; and the moderator shall ascertain and declare the result of the votes on each question.

Where voter is challenged.

SEC. 20. If any person offering to vote at any election, or upon any question arising at such town meeting, is challenged as unqualified, the judges of the town meeting shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the town meeting.

SEC. 21. No person is a voter at any town meeting unless ^{Who are not voters.} he is qualified to vote at general elections, and has been for the last ten days an actual resident of the town wherein he offers to vote.

SEC. 22. The minutes of the proceedings of every town meeting, subscribed by the clerk of said meeting, and by the ^{Minutes of meeting to be filed.} judges, shall be filed in the office of the town clerk within two days after such town meeting.

SEC. 23. Before the electors proceed to elect any town officer, proclamation shall be made of the opening of the polls, ^{Proclamation for opening and closing the polls.} by the moderator, and proclamation shall, in like manner, be made of the adjournment, and of the opening and closing of the polls until the election is ended.

SEC. 24. The supervisors, treasurer, town clerk, assessor, ^{What officers elected by ballot.} justices of the peace, constables and overseer of the poor, in each township, shall be elected by ballot. All other officers, if not otherwise provided by law, shall be chosen either by yeas and nays, or by a division, as the electors determine.

SEC. 25. When the electors vote by ballot, all the officers ^{Form of ballot.} voted for shall be named in one ballot, which shall contain, written or printed, or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be chosen, and shall be delivered to one of the judges, so folded as to conceal the contents.

SEC. 26. When the election is by ballot, a poll list shall be ^{Poll list to be kept.} kept by the clerk of the meeting, on which shall be entered the name of each person whose vote is received.

SEC. 27. When the election is by ballot, one of the judges shall deposit the ballots in a box ^{Ballot to be deposited in a box.} provided for that purpose.

SEC. 28. At the close of every election by ballot, the judges shall proceed publicly to canvass the votes, which canvass, ^{Canvass of votes to be public.} when commenced, shall be continued without adjournment or interruption, until the same is completed.

SEC. 29. The canvass shall be conducted by taking a ballot ^{Canvass, how conducted.} at a time from the ballot box, and counting until the number of ballots is equal to the number of names on the poll list; and if there are any left in the box, they shall be immediately destroyed, and the person having the greatest number of votes, shall be declared elected. If, on opening the ballots, two or more ballots are found to be so folded that it is appa-

rent that the same person voted them, the board shall destroy such votes immediately.

Result of election to be entered in proceedings. SEC. 30. The canvass being completed, a statement of the result shall be entered at length by the clerk of the meeting, in the minutes of its proceedings, to be kept by him as before required, which shall be publicly read by him to the meeting, and such reading shall be deemed notice of the result of the election of every person whose name is entered on the poll list as a voter.

Clerk to notify persons elected. SEC. 31. The clerk of every town meeting, within ten days thereafter, shall transmit to each person elected to any town office, whose name is not entered on the poll list as a voter, a notice of his election.

Persons eligible to office. SEC. 32. Every person qualified to vote at town meetings is eligible to any town office.

Certain officers to take oath. SEC. 33. Every person elected or appointed to the office of supervisor, town clerk, assessor, treasurer, or constable, within ten days after he is notified of his election or appointment, shall take and subscribe before the town clerk or justice of the peace, an oath to support the constitution of the United States, and the act organizing the Territory of Dakota, and faithfully to discharge the duties of his office, (naming the same,) to the best of his ability. Such oath shall be administered without fee, and certified by the officer before whom it was taken, with the date of taking the same.

Form of oath. SEC. 34. The person taking such oath, shall immediately, and before entering upon the duties of his office, file the certificate of such oath in the office of the town clerk.

Certificate of oath to be filed. SEC. 35. If any person elected or appointed to any town office, of whom an oath or bond is required, neglects to file the same within the time prescribed by law, such neglect shall be deemed a refusal to serve in such office.

When person deemed to have refused office. SEC. 36. Every person elected or appointed to the office of overseer of highways, or pound master, before he enters on the duties of his office, and within ten days after he is notified of his election or appointment, shall file in the office of the town clerk, a notice signifying his acceptance of such office. A neglect to file such notice shall be deemed a refusal to serve.

Certain officers to file notice of acceptance. SEC. 37. Every person elected or appointed to the office of treasurer, before he enters upon the duties of his office, shall

execute and deliver to the supervisors of the town and their successors in office, a bond, with one or more sureties to be approved by the chairman of the board, in double the probable amount of money to be received by him, which amount shall be determined by said board, conditioned for the faithful execution of his duties as such treasurer.

SEC. 38. The said chairman shall, within six days thereafter, file such bond, with said approval indorsed thereon, in the office of the register of deeds, who shall record the same in a book provided for that purpose. Bond to be filed, where.

SEC. 39. Every person chosen to the office of constable, before he enters upon the duties of his office, and within eight days after he is notified of his election or appointment, shall take and subscribe the oath of office prescribed by law, and execute a bond to the board of supervisors in such penal sum as the supervisors direct, with one or more sufficient sureties, to be approved by the chairman of said board, or the town clerk, conditioned for the faithful discharge of his duties. The chairman of said board, or the town clerk, shall, if such bond is approved, indorse his approval thereon, and cause such bond to be filed with the town clerk, for the benefit of any person aggrieved by acts or omissions of said constable; and any person so aggrieved, or the town, may maintain an action on said bond against said constable and sureties. Constable to take oath and give bond.

SEC. 40. Every person elected or appointed to the office of justice of the peace, shall, within ten days after receiving notice thereof, take and subscribe before any other officer duly authorized to administer oaths, an oath to support the constitution of the United States, and the act organizing the Territory of Dakota, and faithfully and impartially to discharge the duties of his office, according to the best of his ability. He shall also execute a bond to the board of supervisors, with two or more sufficient sureties, to be approved by the chairman, in the penal sum of not less than five hundred dollars, nor more than one thousand dollars, conditioned for the faithful discharge of his official duties. Said chairman shall indorse thereon his approval of the sureties named in such bond, and such justice shall immediately file the same, together with his oath of office, duly certified, with the clerk of the district court of the proper county, for the benefit of any person aggrieved by the acts of said justice, and any person Justice to take oath and give bond. Amount of bond.

aggrieved may maintain an action on said bond in his own name against said justice and his sureties.

When person
deemed to re-
fuse office.

SEC. 41. If any person elected or appointed to the office of treasurer or constable, does not give such security and take such oath as is required above, within the time limited for that purpose, such neglect shall be deemed a refusal to serve.

When officer
forfeits.

SEC. 42. If any town officer who is required by law to take the oath of office, enters upon the duties of his office before taking such oath, he forfeits to such town the sum of fifty dollars.

Term of office

SEC. 43. Town officers, except justices of the peace and constables, hold their offices for one year, and until others are elected or appointed in their places, and are qualified. The justices of the peace and constables shall hold their offices for two years, and until others are chosen and qualified.

When super-
visors may ap-
point officers.

SEC. 44. Whenever any town fails to elect the proper number of town officers, or when any person elected to a town office fails to qualify, or whenever any vacancy happens in any town office, from death, resignation, removal from the town, or other cause, the justices of the peace of the town, together with the board of supervisors, or a majority of them, shall fill the vacancy by appointment, by warrant under their hand, and the persons so appointed shall hold their offices until the next annual town meeting, and until others are elected and qualified in their places, and shall have the same powers and be subject to the same duties and penalties as if they had been duly elected.

Certain va-
cancies, how
filled.

SEC. 45. Whenever a vacancy occurs from any cause in any of the offices enumerated in the foregoing section, composing the board of appointment for the appointment of officers in case of vacancy, the remaining officers of such appointing board shall fill any vacancy thus occurring.

Proceedings
where town ne-
glects to hold
meetings at
time fixed by
law,

SEC. 46. In case any town refuses or neglects to organize and elect town officers at the time fixed by law for holding annual town meeting, twelve freeholders of the town may call a town meeting for the purpose aforesaid, by posting up notices in three public places in such town, giving at least ten days' notice of such meeting; which notice shall set forth the time and place and object of such meeting; and the electors, when assembled, by virtue of such notice, shall possess all the pow-

ers conferred upon them at the annual town meeting. In case no such notice is given, as aforesaid, within thirty days after the time for holding the annual town meeting, the board of county commissioners of the county, shall, on the affidavit of any freeholder of said town, filed in the office of the clerk of the board, setting forth the facts, proceed, at any regular or special meeting of the board, and appoint the necessary town officers of such town; and the persons so appointed shall hold their respective offices until others are elected and qualified in their places, and shall have the same powers and be subject to the same duties and penalties as if they had been duly elected.

SEC. 47. The board of supervisors of any town, may, for sufficient cause shown to them, accept the resignation of any town officer in their town, and whenever they accept any such resignation, they shall forthwith give notice thereof to the town clerk.

Resignations,
when accepted.

SEC. 48. The supervisors shall have charge of such affairs of the town as are not by law committed to other town officers; and they shall have power to draw orders on the town treasurer for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the town, and for all other moneys raised by the town to be disbursed for any other purpose.

Powers of
supervisors.

SEC. 49. Whenever any incorporate village or town which is laid out into streets is included in the limits of an organized township, the town supervisors are authorized to cause improvements to be made in any street that may be needed as a highway, if the corporate authorities of said village or town neglect to make such improvements.

Authority of
supervisors in
incorporated
villages.

SEC. 50. The town supervisors shall constitute a board of health, and within their respective towns shall have and exercise all the powers necessary for the preservation of the public health.

Board of
health.

SEC. 51. The board of health may examine into all nuisances, sources of filth and causes of sickness, and make such regulations respecting the same as they may judge necessary for the public health and safety of the inhabitants; and every person who shall violate any order or regulation made by any board of health, and duly published, shall be deemed

Powers and
duties of board
of health.

guilty of misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding twenty days.

Board of health to give certain notices.

SEC. 52. Notice shall be given by the board of health of all orders and regulations made by them, by publishing the same in some newspaper, if there is one published in such town; if there is none, then by posting up such notice in five public places therein; and such publication of said orders and regulations shall be deemed a legal notice to all persons.

Nuisances to be removed by whom.

SEC. 53. Whenever any nuisance, source of filth, or cause of sickness, is found on private property, the board of health shall order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours; and if the owner or occupant neglects so to do, he shall forfeit a sum not exceeding fifty dollars, to be recovered in the name of and for the use of the town.

Owner liable for expenses if he neglects.

SEC. 54. Whenever such owner or occupant shall not comply with such order of the board of health, said board may cause the said nuisance, source of filth, or cause of sickness, to be removed, and all expenses incurred thereby shall be paid by the said owner or occupant, or by such other person as has caused or permitted the same.

Board of health may enter building or vessel.

SEC. 55. Whenever the board of health thinks it necessary for the preservation of the health of the inhabitants, to enter any building or vessel in their town, for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth, or cause of sickness, and shall be refused such entry, any member of the board may make complaint under oath to a justice of the peace of his town, stating the facts in the case so far as he has knowledge thereof.

Who may issue warrant to remove nuisance.

SEC. 56. Such justice shall thereupon issue a warrant, directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and being accompanied by two or more of the board of health, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same destroy, remove, or prevent, under the direction of the members of such board of health.

Disposition of persons with small pox, etc.

SEC. 57. When any person coming from abroad, or residing in any town within this Territory, is infected, or lately has

been infected, with the small pox or other contagious disease, dangerous to the public health, the board of health of the town where such sick or infected person is, may immediately cause him to be removed to a separate house, if it can be done without danger to his health, and shall provide for him nurses and necessaries, which shall be at the charge of the person, his parents, guardian or master, if able, otherwise at the charge of the town to which he belongs; and if he is not an inhabitant of any town, at the charge of the county.

SEC. 58. If such infected person cannot be removed without danger to his health, the board of health shall make provision, as directed in the preceding section, for such person, in the house where he may be; and in such case, they may cause the persons in the neighborhood to be removed, and may take such other measures as they may deem necessary for the safety of the inhabitants.

SEC. 59. When a disease dangerous to the public health breaks out in any town, the board shall immediately provide such hospital or place of reception for the sick and infected as is judged best for their accommodation and the safety of the inhabitants, which shall be subject to the regulations of the board; and the board may cause any sick and infected person to be removed thereto unless his condition will not admit of such removal without danger to his health, in which case the house or place where he remains shall be considered as a hospital, and, with all its inmates, subject to the regulations of the board.

SEC. 60. The supervisors shall, by their name of office, prosecute, for the benefit of the town, all actions upon bond given to them, their predecessors in office; and shall also sue for and collect all penalties and forfeitures in respect to which no other provision is made, incurred by any officer or inhabitant of the town; and they shall have power, in like manner, to prosecute for any trespass committed on any public inclosure, or property belonging to the town, and shall pay all moneys collected under this section to the town treasurer.

SEC. 61. Any two of the supervisors constitute a quorum for the performance of any duties required by law, of the town supervisors, except when otherwise provided.

SEC. 62. The town clerk shall have the custody of records, books and papers of the town when no other provision is

Sec. 58.

When board may establish hospital.

The Supervisors to prosecute for any town.

Quorum of board of supervisors.

Town clerk to be custodian of records.

made by law; and he shall duly file, and safely keep all certificates of oaths and other papers required by law to be filed in his office.

Duty of town clerk.

SEC. 63. He shall record in the book of records of his town, minutes of the proceedings of every town meeting, and he shall enter therein every order or direction, and all rules and regulations of any such town meeting; and shall also file and preserve all accounts audited by the town board or allowed at a town meeting, and enter a statement thereof in such book of records.

Town clerk to give bonds.

SEC. 64. Every person elected or appointed to the office of town clerk in any of the towns of this Territory, shall, before he enters upon the duties of his office, and within the time prescribed by law for filing his oath of office, execute a bond, with two or more sufficient sureties, to be approved by the town treasurer, in such penal sum as the supervisors direct, conditioned for the faithful discharge of his duties. Said bond so approved shall be filed in the office of the clerk of the district court for the benefit of any person aggrieved by the acts or omissions of said town clerk, and any person so aggrieved, or the town, may maintain an action on said bond against said town clerk and sureties.

Town clerk to notify district clerk, when.

SEC. 65. Every town clerk, immediately after the qualification of any constable, elected or appointed in his town, shall transmit to the clerk of the district court of the county, the name of such constable.

Same.

SEC. 66. Each town clerk shall, immediately after the election of any justice of the peace in his town, transmit a written notice thereof to the clerk of the district court of said county, stating therein the name of the person elected, and the term for which he is elected; and if elected to fill a vacancy, he shall state in said notice who was the last incumbent of the office.

Penalty for neglect.

SEC. 67. If any town clerk wilfully neglects to make such return, such omission is hereby declared a misdemeanor, and on conviction thereof, the person so offending shall be adjudged to pay a fine not exceeding ten dollars.

Who constitute auditing board.

SEC. 68. The supervisors constitute a town board for the purpose of auditing all accounts payable by said town; and if from any cause there are not three supervisors present, to

constitute said board, the chairman, and in his absence, either of the other supervisors, may notify any one, or so many of the justices of the peace of the town as will, together with the supervisors present, make a board of three; and the board so constituted shall have authority to act as the town board.

SEC. 69. The town board shall meet annually, on the Tuesday next preceding the annual town meeting to be held in said town, and at such other times as they deem necessary and expedient, for the purpose of auditing and settling all charges against said town; and they shall state on each account the amount allowed by them; but no allowance shall be made for any amount which does not specifically state each item of the same, and the nature thereof.

Annual and other meetings of town board.

SEC. 70. The said board shall, also, at their annual meeting in each year, examine and audit the accounts of the town treasurer for all moneys received and disbursed by him as such officer; and they shall audit the accounts of all other town officers who are authorized by law to receive or disburse any money of the town by virtue of their office.

Board to audit accounts

SEC. 71. Such board shall draw up a report, stating in detail the items of account audited and allowed, the nature of each account, and the name of the person to whom such account was allowed, including a statement of the fiscal concerns of the town, and an estimate of the sum necessary for the current expenses thereof, the support of the poor, and other incidental expenses for the ensuing year.

Board to make report

SEC. 72. Such report shall be produced and publicly read by the town clerk at the next ensuing town meeting, and the whole or any portion of such report may be referred, by the order of the meeting, to a committee, whose duty it shall be to examine the same and report thereon to such meeting.

Report to be read, when.

SEC. 73. The amount of any account audited and allowed by the town board, and the amount of any account voted to be allowed at any town meeting, shall be paid by the town treasurer, on the order of said board, signed by the chairman and countersigned by the clerk; and all orders issued to any person by the town board for any sums due from such town, shall be receivable in payment of town taxes of said town.

Town treasurer to pay accounts.

SEC. 74. The town clerk shall be the clerk of the town board, and shall keep a true record of all their proceedings in his office.

Town clerk to be clerk of board.

Duty of town
treasurer.

SEC. 75. The town treasurer shall receive and take charge of all moneys belonging to the town, or which are by law required to be paid into the town treasury, and shall pay over and account for the same upon the order of such town, or the officers thereof, duly authorized in that behalf, made pursuant to law, and shall perform all such duties as may be required of him by law.

Same.

SEC. 76. Every town treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided at the expense of the town for that purpose, and exhibit such account, together with his vouchers, to the town board at its annual meeting, for adjustment; and he shall deliver all books and property belonging to his office, the balance of all moneys in his hands as such treasurer, to his successor in office, on demand, after such successor has qualified according to law.

Same.

SEC. 77. The town treasurer shall from time to time draw from the county treasurer such moneys as have been received by the county treasurer for the use of his town, and on receipt of such moneys shall deliver proper vouchers therefor. Each town treasurer shall be allowed and entitled to retain two per centum of all moneys paid into the town treasury, for receiving, safe keeping, and paying over the same according to law.

Town treasurer to make a statement.

SEC. 78. Each town treasurer, shall make out and present to the town board on the Tuesday next preceding the annual town meeting, a statement in writing of the moneys by him received into the town treasury from the county treasurer, and from all other officers and persons, and also of all moneys paid out by him as such treasurer, in which statement he shall set forth particularly from whom and on what account such moneys were received by him, with the amount received from each officer or person, and the date of receiving the same, also to whom and for what purpose any moneys have been paid out by him, with the amount and date of each payment. He shall also state therein the amount of moneys remaining in his hands as treasurer. Such statement shall be filed by him in the office of the town clerk, and shall be by such clerk carefully preserved and recorded in the town book of records.

SEC. 79. Every town treasurer who refuses or neglects to comply with the provisions of the four preceding sections, shall forfeit not more than two thousand dollars, to be recovered in any court of competent jurisdiction, the amount to be fixed by the jury trying the cause, or by the court, if there is no jury empanelled, and may be recovered by civil action, in the name of the person who prosecutes the same, with costs of suit: one half shall go to the person so prosecuting, and the remainder to the town of which such delinquent is or has been treasurer.

Where town treasurer neglects. penalty.

SEC. 80. The following town officers are entitled to compensation at the following rates for each day necessarily devoted by them to the service of the town, in the duties of their respective offices. The town assessors shall receive for their services two dollars per day, while engaged in their respective duties as such assessors. The town clerk and supervisors shall receive for their services one dollar and fifty cents per day, when attending to business in their town, and two dollars when attending to business out of town; no town supervisor shall receive more than twenty dollars, for compensation, in any one year: *Provided*, That the town clerk shall be paid fees for the following, and not a per diem; for serving notices of election upon town officers, as required by law, twenty-five cents each; for filing any paper required by law to be filed in his office, ten cents each; for posting up notice required by law, twenty-five cents each; for recording any order or any instrument of writing authorized by law, six cents for each one hundred words; for copying any record or instrument on file in his office, and certifying the same, six cents for each one hundred words, to be paid for by the person applying for the same; *Provided further*, That at any town meeting, before the electors commence balloting for officers, they may by resolution reduce or increase the compensation of officers, but no such increase shall exceed one hundred per cent.

What officers are entitled to compensation and amount of fees.

Electors may increase compensation.

SEC. 81. The pound master is allowed the following fees, to-wit: For taking into pound, and discharging therefrom, any horse, ass or mule, and all neat cattle, ten cents each. For every sheep or lamb, three cents each; and for every hog, large or small, five cents; and twenty cents for keeping each head twenty-four hours in pound. And the pound master has

Fees of pound master and duties.

Disposition of animals impounded. a lien on all such animals, for the full amount of his legal charges and expenses, and shall be entitled to the possession of such animals until the same are paid; and if the same are not paid and said animals removed within four days after they are so impounded, the said pound master shall give notice, by posting the same in three of the most public places in said town; that said animals (describing them,) are impounded, and that unless the same are taken away and fees paid, within fifteen days after the date of such notice, he will sell the same at public vendue, at the place where the town meetings of said town are usually held, and on the day designated in such notice, the said pound master shall expose the said animals for sale, and sell the same to the highest bidder in cash, for which services he shall receive two per cent. of the purchase money for each animal. Out of the moneys realized from said sale, the said pound master shall deduct all his legal fees and charges, and pay the balance, if any, to the chairman of the town supervisors, at the same time giving to said supervisors, an accurate description of the animals sold, and the amount received by him for each animal, and shall take a receipt and duplicate therefor, and file one of them with the town clerk; *Provided*, That the said supervisors shall at any time within six months, upon sufficient proof from the owner of any animal so sold, pay to said owner the balance due as received from the said pound master; but if said money is not claimed within that time, then the sum so received shall be retained for the use of said town.

How proceedings at law shall be conducted. - SEC. 82. Whenever any controversy or cause of action exists between towns, or between a town and an individual or corporation, such proceedings shall be had either at law or equity; for the purpose of trying and settling such controversy, and the same shall be conducted in the same manner, and the judgment or decree therein shall have the like effect as in other actions or proceedings of a similar kind between individuals and corporations.

Town, how to sue, etc. SEC. 83. In all such actions and proceedings the town shall sue and be sued by its name, except where town officers are authorized by law to sue in their name of office for the benefit of the town.

When town officer not required to appear. SEC. 84. But no town or town officer shall be required to appear, answer, or plead to any such action at the first term

of the court after the commencement thereof, when the same is commenced in the district court, unless the process aforesaid is served as herein directed, at least thirty days before the commencement of the term.

SEC. 85. In legal proceedings against a town by name, all papers shall be served on the chairman of the board of supervisors, and in case of his absence, on the town clerk; and whenever any action or proceeding is commenced, said chairman shall attend to the defense thereof, and lay before the electors of the town, at the first town meeting, a full statement of such proceedings, for their direction in regard to the defense thereof.

Papers shall be served on whom.

SEC. 86. No action in favor of any town shall be brought before any justice of the peace residing in such town.

Actions not to be brought before justices.

SEC. 87. Whenever any action is brought to recover a penalty imposed for any trespass committed on the lands belonging to the town, if it appears on the trial thereof that the actual amount of injury to such town lands, in consequence of such trespass, exceeds the sum of twelve dollars and fifty cents, then the amount of actual damage, with cost of suit, shall be recovered in said action instead of any penalty for said trespass imposed by the town meeting, and such recovery shall be used as a bar to every other action for the same trespass.

In certain cases damages to be recovered instead of penalty.

SEC. 88. Whenever, by decree or decision in any action or proceeding brought to settle any controversy in relation to town commons or other lands, the common property of a town, or for the partition thereof, the rights of any town are settled and confirmed, the court in which such proceedings are had may partition such lands according to the right of parties.

In certain cases court may partition lands.

SEC. 89. When a judgment is recovered against any town, or against any town officers, in an action prosecuted by or against them in their name of office, no execution shall be awarded or issued upon such judgment, but the same, unless reversed or stayed on appeal, shall be paid by the town treasurer upon demand, and the delivery to him of the certified copy of the docket of the judgment, if there is sufficient money of such town in his hands not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount,

In cases when judgment is recovered, treasurer shall pay the same.

unless the collection thereof is afterwards stayed upon appeal. If payment is not made within thirty days after the time fixed by law for the county treasurer to pay over to the town treasurer the money in his hands belonging to such town, levied for the purpose of paying such judgment, next after the rendition of such judgment, execution may be issued on such judgment, but only town property shall be liable thereon.

When amount of judgment shall be added to tax of town.

SEC. 90. If judgment for the recovery of money is rendered against any town, and the judgment is not satisfied, or proceedings thereon stayed by appeal or otherwise, before the next annual meeting of said town, a certified copy of the docket of the judgment may be presented to said town at said annual meeting. The supervisors of the town shall thereupon cause the amount due on the judgment, with interest from the date of its recovery, to be added to the tax of said town, and the same certified to the county auditor and collected as other town taxes are collected.

Guide posts.

SEC. 91. Every township shall, in the manner provided herein, erect and maintain guide posts on the highways and other ways within the township, at such places as are necessary or convenient for the direction of travelers.

Supervisors to report on guide posts.

SEC. 92. The supervisors shall submit to the electors, at every annual meeting, a report of all the places at which guide posts are erected and maintained within the town, and of all places at which, in their opinion, they ought to be erected and maintained. For each neglect or refusal to make such report, they shall severally forfeit the sum of ten dollars.

Town to determine where guide posts shall be maintained.

SEC. 93. Upon the report of the supervisors, the town shall determine the several places at which guide posts shall be erected and maintained, which shall be recorded in the town records. A town which neglects or refuses to determine such places and to cause a record thereof to be made, shall forfeit the sum of five dollars for every month during which it neglects or refuses so to do; and in such case, upon any trial for not erecting or maintaining guide posts reported to be necessary or convenient, by the supervisors, the town shall be estopped from alleging that such guide posts were not necessary or convenient.

Style of guide post to be erected.

SEC. 94. At each of the places determined by the town, there shall be erected a substantial post of not less than eight feet

in height, near the upper end of which shall be placed a board, and upon such board shall be plainly and legibly painted, or otherwise marked, the name of the next town or place, and such other town or place of note as the supervisors think proper, to which each of such roads lead, together with the distance or number of miles to the same; and also the figure of a hand, with the forefinger thereof pointed towards the towns or places to which said road leads; *Provided*, That the inhabitants of any town may, at their annual meeting, agree upon some suitable substitute for such guide post.

SEC. 95. Whenever the electors of any town determine at their annual meeting to erect one or more pounds therein, the same shall be under the care and direction of such pound masters as are chosen or appointed for that purpose.

SEC. 96. The electors of any town may at any annual town meeting, discontinue any pounds therein.

SEC. 97. The following shall be deemed town charges:

First. The compensation of town officers for services rendered their respective towns.

Second. Contingent expenses necessarily incurred for the use and benefit of the town.

Third. The moneys authorized to be raised by the vote of the town meeting for any town purpose.

Fourth. Every sum directed by law to be raised for any town purpose; *Provided*, That no tax for town purposes shall exceed the amount voted to be raised at the annual town meeting as provided in subdivision eight, section fifteen, aforesaid.

SEC. 98. The moneys necessary to defray the town charges of each town shall be levied on the taxable property in such town, in the manner prescribed in the chapter for raising revenue, and other money for Territorial and county purposes and expenses.

SEC. 99. Whenever the term of any supervisor, town clerk, or assessor, expires, and another person is appointed or elected to such office, such successor, immediately after he enters on the duties of his office, shall demand of his predecessor, all books and papers under his control belonging to such office.

SEC. 100. Whenever either of the officers above named resigns, or the office becomes vacant in any way, and another

person is elected or appointed in his stead, the person so selected shall make such demand of his predecessor or of any person having charge of such books and papers.

Office properly to be delivered upon oath.

SEC. 101. Every person so going out of office, whenever thereto required, pursuant to the foregoing provisions, shall deliver, upon oath, all records, books and papers in his possession, or in his control, belonging to the office held by him, which oath may be administered by the officer to whom such delivery is made.

Same.

SEC. 102. Upon the death of any of the officers enumerated, the successor of such officer shall make such demand as above provided, of the executors or administrators of such deceased officer, and such executors or administrators shall deliver upon like oath, all records, books, papers, or moneys in their possession or under their control, belonging to the office held by their testator or intestate.

Election precinct.

SEC. 103. Each town organized under this chapter, constitutes an election precinct.

Town shall not contract debts in excess of taxes.

SEC. 104. No town has power to contract debts, or make expenditures for any one year in a larger sum than the amount of taxes assessed for such year, without having been authorized by a majority of the voters of such township, and no town shall assess for township purposes more than three mills on the dollar of taxable property for any one year.

This act not to apply to incorporated cities.

SEC. 105. Nothing in this chapter contained shall in any way apply to any portion of the Territory which is embraced within the limits of any incorporated city: but each incorporated city shall have and exercise within its limits, in addition to its other powers, the same powers conferred by this chapter upon towns, in the same manner prescribed by law.

Conflicting acts repealed.

SEC. 106. All acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

FORMS.

FORM OF PETITION FOR ORGANIZATION OF TOWN:

Territory of Dakota,)
County of)

To the board of county commissioners of said county:

The undersigned legal voters of and in township number , range , in said county of , which said township contains twenty-five legal voters, do hereby petition your honorable board to be organized as a town, and respectfully request that you forthwith proceed to fix and determine the boundaries of such town, and to name the same, as provided by law.

Form of petition for organization of town.

Dated this day of , A. D. 18...

(Signed by at least 13 legal voters.)

FORM OF REPORT OF COUNTY COMMISSIONERS.

Territory of Dakota,)
County of)

Pursuant to the petition of a majority of the legal voters of township number , range , in said county, we, the county commissioners of said county, did on the , day of , A. D. 18.... , at , in said county, proceed to fix and determine the boundaries of such new town, and to name the same, and did then and there lay off said town and designate the boundaries thereof as follows, to-wit:

Form of report of county commissioners.

and did name such town, in accordance with the expressed wish of a majority of the legal voters, residents therein.

In testimony whereof we have hereunto set our hands and caused the seal of said board to be affixed, this day of, A. D., 18. . . .

Attest: }
, Clerk. } Commissioners.

FORM OF NOTICE FOR FIRST TOWN MEETING.

Form of notice of first town meeting.

The legal voters of the town of, in the county of, and Territory of Dakota are hereby notified that the first town meeting for said town will be held at in said town, on, the day of, A. D., 18. . . ., for the purpose of electing the following town officers: (State town officers to be elected.)

Attest: }
, Clerk. } Commissioners.

FORM OF NOTICE OF ANNUAL TOWN MEETING.

Form of notice of annual town meeting.

The citizens of the town of, in the county of, and Territory of Dakota, who are qualified to vote at general elections, are hereby notified that the annual town meeting for said town will be held at, in said town, on Tuesday, the day of April next, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of the same day, for the following purposes:

- 1. To elect three supervisors, one of whom shall be designated on the ballots as chairman, one town clerk, one treasurer, one assessor, two justices of the peace, two constables, and overseer of highways for each road district in said town.

2. To (state the business to be transacted,) and to do any other business proper to be done at said meeting when convened.

Given under my hand, this day of, A. D., 18...
..... Town Clerk.

FORM OF STATEMENT TO BE FILED IN THE OFFICE OF TOWN CLERK FOR SPECIAL TOWN MEETING.

The undersigned, town officers and other freeholders of the town of in the county of, hereby declare and state that a special town meeting is necessary to the interests of said town, for the purpose of (here set forth the object of the meeting.)

Form of statement to be filed in the office of town clerk for special town meeting.

Witness our hands this day of, A. D., 18...
....., Supervisor.
....., Town Clerk.
....., } Justices of
....., } the Peace.

(Names of twelve other freeholders.)

FORM OF NOTICE FOR SPECIAL TOWN MEETING.

WHEREAS. The supervisors, town clerk, and justices of the peace (or as the case may be,) together with twelve others, freeholders of the town of have, in writing filed in my office a statement that a special town meeting is necessary to the interests of said town.

Form of notice for special town meeting.

The inhabitants, legal voters of the said town of are therefore hereby notified, that a special town meeting will be held at, on the of, A. D. 18...., at nine o'clock in the forenoon, for the purposes following, to-wit: To (here enumerate specifically in proper order, the

subjects to be acted upon as contained in the statement filed.)
Being the objects contained in the statement filed in my office.

Given under my hand at, this day of,
A. D., 18. . . .

. Town Clerk.

FORM OF PRELIMINARY OATH TO PERSON CHALLENGED.

Form of preliminary oath to person challenged.

You do swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence and qualifications as a voter at this town meeting.

FORM OF OATH TO BE TAKEN BY THE PERSON OFFERING TO VOTE.

Form of oath to be taken by the person offering to vote.

You do swear (or affirm) that you are twenty-one years of age, that you are a citizen of the United States, (or that you have declared your intention to become such citizen conformably to the laws of the United States on the subject of naturalization,) and that you have been an inhabitant of this Territory for four months immediately preceding this election; that you have been an actual resident of this election district, (or of this town, as the case may be,) for the ten days immediately preceding this election.

NOTICE OF ELECTION TO TOWN OFFICE.

To :

Notice of election to town office.

You are hereby notified that at the annual town meeting, (or special town meeting,) held in the town of, county of, and Territory of Dakota, on the day of

....., A. D., 18....., you were duly elected to the office of

Given under my hand, this [day] of, A. D., 18.....

....., Town Clerk.

FORM OF OATH.

Territory of Dakota, }
..... County. } ss.

I....., do solemnly swear, (or affirm,) that I will support the constitution of the United States, and of the Territory of Dakota, and faithfully discharge the duties of the office of of the town of, in the county of to the best of my ability., A. D., 18.....

Form of oath.

Sworn to and subscribed before me, }
this day of A. D., 18... }

....., Justice of the Peace.

NOTICE OF ACCEPTANCE OF OVERSEER OR POUND MASTER.

To....., Town Clerk of the town of

SIR.—Having been elected (or appointed) overseer of highways (or pound master) for district number, in said town, on the day of, A. D., 18....., I hereby notify you that I accept said office.

Notice of acceptance of overseer or pound master.

Witness my hand, this day of, A. D., 18.....

.....

FORM OF TREASURER'S BOND.

Form of treasurer's bond.

Know all men by these presents, that we, A. B., of the town of, in the county of, in the Territory of Dakota, as principal, and C. D. and E. F., of said county and state, as sureties, are held and firmly bound unto (names of supervisors,) supervisors of said town of, and their successors in office, in the penal sum of (double the amount of money to be received) for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, and dated this day of A. D., 18. . . .

The condition of the above obligation is such, that, whereas, the above bounden, A. B., has been elected (or appointed) treasurer for the said town of, for the current year, and has accepted the office, and is about taking upon himself the discharge of its duties,

Now, therefore, if the said A. B. shall faithfully execute and discharge all his duties as such treasurer, then the above obligation to be void, otherwise to remain in full force and effect.

A. B., [SEAL.]
 C. D., [SEAL.]
 E. F., [SEAL.]

Indorsement of Approval.

Indorsement of approval.

I hereby approve the within bond and the sureties thereon.

.....
 Chairman of Board of Supervisors
 of the town of

Dated, A. D., 18. . . .

FORM OF WARRANT OF APPOINTMENT BY JUSTICES OF THE PEACE AND BOARD OF SUPERVISORS TO FILL VACANCY.

Form of warrant of appointment by justices of the peace and board of supervisors to fill vacancy.

To, Esq., of the town of, in the county of, Territory of Dakota, greeting:

WHEREAS, said town has failed to elect (state the officer, or

if the vacancy occurs from any other cause named in the section, so state) for the year 18. . . . , and the office of is now vacant: Therefore we do hereby appoint you (insert title of office) for said term (or county,) to hold said office until the next annual town meeting, and until a successor is elected and qualified in your place; and you shall have the same powers and be subject to the duties and penalties as if you had been duly elected to said office.

Given under our hands this day of A. D., 18..

., { Supervisors.
., }
., { Justices of
. } the Peace.

FORM OF NOTICE BY TOWN CLERK TO ONE APPOINTED TO FILL VACANCY.

To Esq., of the town of in the county of and Territory of Dakota:

Form of notice by town clerk to one appointed to fill vacancy.

You are hereby notified that on the day of A. D., 18. . . . , the justices of the peace and supervisors of said town, by their warrant of that date, under their hands, appointed you to the office of (here insert the title of the office) for said town, which warrant has been duly filed in my office.

Given under my hand this day of A. D., 18. . . .
. Town Clerk.

FORM OF NOTICE FOR TOWN MEETING WHERE TOWN HAS FAILED TO ELECT TOWN OFFICERS.

The town of, county of , and Territory of Dakota, having neglected at the time fixed by law to organize and elect town officers, we, the undersigned petitioners of said town, do hereby call a town meeting to elect (state the

Form of notice for town meeting where town has failed to elect town officers.

officers,) to be held at, in said town, on the day of A. D. 18. . . .

Dated, A. D., 18. . . .

(Names of at least twelve freeholders.)

AFFIDAVIT OF FREE HOLDER IN CASE NOTICE OF TOWN MEETING IS NOT GIVEN WITHIN THIRTY DAYS AFTER TIME FOR HOLDING ANNUAL TOWN MEETING.

Territory of Dakota,)
County of) ss.

Affidavit of free holder in case notice of town meeting is not given within thirty days after time for holding annual town meeting.

A. B., being duly sworn, says he is a freeholder of and in the town of, in said county, that said town did, at the time fixed by law for holding its last annual town meeting, neglect (or refuse) to organize and elect town officers: that no notice for a special town meeting to elect said officers has been given within thirty days after the time for holding the annual town meeting as aforesaid, and that this affidavit is made under section 47, for the purpose of enabling the board of county commissioners of said county to appoint the necessary town officers for the town aforesaid.

Subscribed and sworn to before me, this day of A. D., 18. . . .

.....

WARRANT OF APPOINTMENT BY BOARD OF COUNTY COMMISSIONERS.

Warrant of appointment by board of county commissioners.

WHEREAS, it has been made to appear by the affidavit of, filed in the office of the county register of the county of, and Territory of Dakota, on the day of, A. D., 18. . . ., that the town of, in said county, did neglect (or refuse) to organize and elect town officers at the time fixed by law for holding its last annual town meeting, and that no notice for a special town meeting to elect

said officers has been given within the time allowed by law for that purpose. Therefore we, the county commissioners of said county do hereby appoint (state each officer separately,) for said town, until others are elected and qualified in their places.

Given under our hand, this day of, A.D., 18...

Attest: Chairman of Board of Co. Commissioners.
..... Clerk.

FORM OF RESIGNATION OF TOWN OFFICER.

To the board of supervisors of the town of, county of and Territory of Dakota: Form of resignation of town officer.

I hereby resign the office of, for said town, and respectfully request that my resignation be accepted, for the following reasons: (state cause of resignation.)

Dated this day of A. D., 18....

A..... B.....

FORM OF ACCEPTANCE.

The board of supervisors of said town of, being satisfied that the causes above set forth are sufficient, do accept the resignation of the said A. B. Form of acceptance.

Witness our hands this day of, A. D.,

..... }
..... } Supervisors.
..... }

FORM OF NOTICE TO TOWN CLERK.

To, town clerk of said town of

Form of notice to town clerk.

You are hereby notified that the board of supervisors of said town have accepted the resignation of A. B., of the office of, for said town, and that said office is now vacant.

Given under our hands this day of, A. D., 18...

., } Supervisors.
., }
., }

FORM OF COMPLAINT.

Territory of Dakota, }
. County. } ss

Form of complaint

A. B., on oath, complains and says that he is a member of the board of health of and for the town of, in said county, that said board on the day of, A. D. 18... thinking it necessary for the preservation of the health of the inhabitants of said town, did attempt to enter (describing the building or vessel, and give name of owner, if known, situate or being in said town, for the purpose of (state object) which then and there existed, and that said board of health and each member thereof then present, was by refused such entry and prevented from entering such (building or vessel,) contrary to the statute in such case provided. And further deponent saith not, except that a warrant issue as prescribed by law.

A. B.

Subscribed and sworn to before me,
this day of, A. D. 18...

.

FORM OF WARRANT.

Territory of Dakota,)
 County of) ss

The Territory of Dakota, to the sheriff or any constable of said county: Form of warrant

WHEREAS, A. B. has this day made complaint under oath to me, that (here insert the substance of the complaint,) and prayed that a warrant issue as prescribed by law; Now, therefore, you are commanded to take sufficient aid, and being accompanied by two or more of the board of health of said town of, repair to (state place and matter complained of,) and the said (nuisance or other matter) destroy (remove or prevent,) under the direction of the members of the board of health aforesaid.

Given under my hand, this of, A. D. 18..

.....,
 Justice of the Peace.

FORMS UNDER SECTIONS 66 AND 67.

Town of, A. D. 18..
, clerk of the district court of the county of

Sir:—A. B. was elected (or appointed) constable of the town of, in said county, on the day of, A. D. 18.., and has qualified according to law. Forms under sections sixty-six and sixty-seven

....., Town Clerk.

Town of, A. D. 18..
, clerk of district court of the county of

Sir:—A. B. was, on the day, A. D. 18.., elected justice of the peace for said town for the term of (If elected to fill a vacancy, add:) Said A. B. was elected to fill a vacancy in said office, of which the last incumbent was

....., Town Clerk.

FORM OF REPORT OF SUPERVISORS.

Form of report supervisors

Report of the supervisors of the town of, county of, and Territory of Dakota, for the year

Items of Acc't Allowed.	Nature of Acc't.	Name of Person.
	\$	
.....
.....
	\$	

The supervisors estimate that the following sums are necessary for the ensuing year to meet the expenses of the town:

Current expenses,.....	\$.....
Support of poor,.....	\$.....
Other incidental expenses,.....	\$.....

Total,..... \$.....

(Add general statement of fiscal concerns.)

.....

Supervisors.

FORM OF STATEMENT OF TOWN TREASURER.

Form of statement of town treasurer

Annual statement of, treasurer of the town of, county of, and Territory of Dakota, for the year 18..

Money received.	Date.	From whom.	On what Acc't.	Am't.
				\$
				Total, \$
Money paid out.	Date.	To whom.	For what Purpose.	Am't.
				\$
				Total \$
				Bal., \$

FORM OF NOTICE BY POUND MASTER.

NOTICE OF IMPOUNDING AND SALE.—Take notice that the following animals (describing them) are impounded in the town of, county of, and Territory of Dakota, and that unless said animals are taken away and fees paid within fifteen days after the date of this notice, I will sell the same at public vendue, to the highest bidder in cash. at (state place, which must be where town meetings are usually held,) at . . . o'clock in the . . . noon of that day.

Form of notice by pound master

Dated at this day of, A. D. 18..

.....
Pound Master.

FORM OF REPORT OF SUPERVISORS.

The supervisors of the town of, county of, and Territory of Dakota, respectfully report that guide posts are erected and maintained in the places following, and none other in said town, viz: (Give particular description of each place.) The supervisors are of opinion that guide posts ought to be erected and maintained in the following places in said town, and that there are no other places where such guide posts will be necessary or convenient:.....

Form of report supervisors

Dated A. D., 18..

.....
.....
.....
Supervisors.

OATH OF PERSON DELIVERING PAPERS, &c.

You do solemnly swear (or affirm) that you have delivered to me as (state office,) all records, books and papers in your possession, or under your control, belonging to said office of, heretofore held by you. So help you God.

Oath of person delivering papers, &c.

Approved, January 10th, 1873.

TRIALS.

CHAPTER 52.

AN ACT AUTHORIZING THE TRIAL OF ALL CAUSES IN THE COUNTIES OF YANKTON, CLAY AND PEMBINA, BEFORE THE UNITED STATES JURIES.

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

Territorial
cases to be tried
by U. S. grand
juries in cer-
tain counties.

SECTION 1. That all Territorial, criminal and civil causes, in the county of Yankton, shall be submitted to and tried before what is known as the United States grand and petit juries of the 2d Judicial District of Dakota, in the same manner as such cases are now tried before what is now known as the Territorial grand and petit juries of said Yankton county. Nor shall it be a cause for challenge to any of such jurors, that they have not been selected and summoned as provided by the laws of the Territory; but the only objection to such juries or jurors are such as would exist in United States cases.

When judge
may order Ter-
ritorial jury.

SEC. 2. If the judge who holds the court, shall, at any time, be of the opinion that for any cause the Territorial cases cannot be tried as provided by this act, he shall order the necessary grand and petit juries, in accordance with the laws now existing, notwithstanding this act.

Clay and Pem-
bina counties
added.

SEC. 3. This act shall apply to Clay and Pembina counties, the same as to Yankton county.

When to take
effect.

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

Approved, January 10th, 1873.

SPECIAL AND PRIVATE

LAWS, JOINT RESOLUTIONS

AND MEMORIALS.

PASSED AT THE TENTH SESSION OF THE

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF DAKOTA,

COMMENCED AT THE

CITY OF YANKTON,

THE CAPITAL OF DAKOTA, ON MONDAY, DECEMBER 2, A. D. 1872.

SPECIAL
AND
PRIVATE LAWS.

APPORTIONMENT.

CHAPTER 1.

AN ACT TO DIVIDE THE 6TH COUNCIL AND REPRESENTATIVE DISTRICTS, AND CREATE TWO NEW COUNCIL AND REPRESENTATIVE DISTRICTS OUT OF THE SAME.

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

SECTION 1. The counties of Lincoln and Turner shall constitute the 6th Council and Representative district, and shall be entitled to a representation of one member of the Council, and (2) two members of the House of Representatives. Certain counties made the 6th district.

SEC. 2. The counties of Minnehaha, Lake and Moody, shall constitute the 8th Council and Representative district, and shall be entitled to representation of three members of the House of Representatives. Eighth council district.

SEC. 3. The counties of Brookings, Deuel, Hamlin and Grant, shall constitute the 9th Council and Representative district, and shall be entitled to a representation of one member of the House of Representatives. Ninth council district.

SEC. 4. All acts or parts of acts in conflict with this act, are hereby repealed. Conflicting acts repealed.

SEC. 5. This act shall take effect and be in force from and after its passage and approval by the Governor. When to take effect.

Approved, January 10th, 1873.

CHAPTER 2.

AN ACT ENTITLED AN ACT TO DEFINE THE FIFTH COUNCIL
AND REPRESENTATIVE DISTRICT.

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

Certain coun-
ties constitute
the fifth district SECTION 1. That the counties of Charles Mix, Buffalo, Hyde,
Hand, Faulk, Edmunds, McPherson, Hughes, Sully, Ash-
more, Walworth, Campbell, Burleigh, Stevens, Walette,
Mountraille, Renville, Bitteneau, Douglas, Mc Henry, and
Sheridan, shall be the fifth Council and Representative Dis-
trict, and be it further enacted that all of the aforesaid coun-
ties north of the 46th parallel be, and they are hereby attach-
Attached for
election pur-
poses. ed to the county of Burleigh for election purposes, until they
shall become organized as now provided by law, and all those
counties south of the 46th parallel herein named shall be at-
tached to Charles Mix county for election purposes.

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

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

Approved, January 10th, 1873.

ASSESSMENTS.

MINNEHAHA COUNTY.

CHAPTER 3.

AN ACT LEGALIZING THE ASSESSMENT OF MINNEHAHA COUNTY FOR THE YEAR 1872.

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

SECTION 1. That the official acts of John O. Walker, as Certain acts legalized. assessor of Minnehaha county, for the year 1872, be, and they are hereby declared legal.

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

Approved, January 6th, 1873.

ASSESSOR.

YANKTON COUNTY.

CHAPTER 4.

AN ACT TO AMEND CHAPTER ONE OF THE SPECIAL LAWS OF 1870 AND 71.

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

Three dollars
substituted for
wo.

SECTION 1. That where the word two dollars appears in the eleventh line, in section one, of chapter one, of the special laws of 1870 and 71, be made to read "three dollars."

When to take
effect.

SEC. 2. This act shall take effect from and after its passage and approval by the Governor.

Approved, January 2nd, 1873.

BONDS.

YANKTON COUNTY.

CHAPTER 5.

AN ACT AUTHORIZING THE YANKTON COUNTY AGRICULTURAL SOCIETY TO ISSUE BONDS TO PURCHASE A FAIR GROUND.

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

SECTION 1. That the Yankton County Agricultural Society ^{Authorized} be, and is hereby authorized to issue three thousand dollars ^{to issue bonds.} in bonds, payable in five or ten years, with interest, payable at the rate of ten per cent. per annum.

SEC. 2. This act shall take effect and be in force from and ^{When to take} after its passage and approval. ^{effect.}

Approved, January 10th. 1873.

BORROWING MONEY.

YANKTON COUNTY.

CHAPTER 6.

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF YANKTON COUNTY, TO BORROW MONEY IN CERTAIN CASES.

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

Authorized to
borrow money.

SECTION 1. That the county commissioners of the county of Yankton. be, and are hereby authorized to borrow any amount of money not to exceed in any one year, over eight thousand dollars, and for a time not to exceed twelve months. Said money to be used only to meet the interest on the bonds voted by Yankton county, in aid of the Dakota Southern railroad, and for no other purpose, and to draw no higher interest than allowed by law in other cases.

Authorized to
issue warrants

SEC. 2. It shall be lawful for the county commissioners to issue railroad interest warrants, drawing interest at the rate of (10) ten per cent. per annum, not to exceed eight thousand dollars in the aggregate in any one year the same being receivable by the county treasurer, for railroad tax.

When to take
effect.

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

Approved, December 21st, 1872.

CHANGE OF NAME.

CHAPTER 7.

AN ACT TO CHANGE THE NAME OF "SLIP UP VALLEY" TO THAT
OF SCOTT VALLEY.

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

SECTION 1. That the valley in Minnehaha county at present Name changed
known as "Slip Up Valley," have its name changed to that of
"Scott Valley."

SEC. 2. This act shall take effect from and after its pass- When to take
age and approval by the Governor. effect.

Approved. January 6th, 1873.

COMMISSIONER DISTRICTS.

BON HOMME COUNTY.

CHAPTER 8.

AN ACT TO CREATE THREE COMMISSIONER DISTRICTS IN BON HOMME COUNTY.

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

Boundaries of
new commis-
sioner districts
defined.

SECTION 1. That the county of Bon Homme, in Dakota Territory, be, and the same is hereby divided into three districts, to be known as commissioner districts, and to be bounded as follows: District No. 1, to commence at the northeast corner of the county; thence west to the west line of section two, township fifty-nine, range ninety-six; thence south to the Missouri river; thence with the Missouri river to the east line of the county; thence north to the place of beginning: District No. Two, to commence at the northeast corner of section three, township fifty-nine, range ninety-six; thence west to the northwest corner of section four, township sixty, range ninety-six; thence south to the Missouri river; thence with said river to the west line of District No. One; thence north to the place of beginning: District No. Three to commence at the northeast corner of section five, township sixty, range ninety-six; thence west, to the west line of the county; thence south to the Missouri river; thence with said river to the west line of District No. Two; thence north to the place of beginning.

SEC. 2. That at the first general election, and annually thereafter, there shall be elected one commissioner for each of the districts named, each one of whom shall be residents 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 is now prescribed by law.

One commissioner to be elected from each district.

SEC. 3. That at the first meeting of said commissioners, and immediately after qualifying, they shall provide for the expiration of the term of service of one of their number at the end of one, two and three years severally, the same to be determined by lot, and at all subsequent elections the vacancies thus provided for, shall be filled by the election of one commissioner, who shall hold his office for three years; *Provided*, That vacancies, which may otherwise occur, shall be filled as now provided by law, the vacancy thus filled to be for the unexpired term only.

Duty of commissioners respecting election and term service.

Proviso.

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

When to take effect.

Approved, January 9th, 1873.

UNION COUNTY.

CHAPTER 9.

AN ACT TO ESTABLISH COMMISSIONER AND ASSESSOR DISTRICTS IN UNION COUNTY.

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

SECTION 1. That the townships known as Big Sioux, Jefferson and Civil Bend, shall, and the same are hereby made to constitute the first commissioner and assessor district.

First commissioner district.

Second. SEC. 2. That the townships known as Elk Point and Brule Creek, shall, and the same are hereby made to constitute the second commissioner and assessor district.

Third. SEC. 3. That the townships known as Sioux Valley, Virginia, Spink and Prairie, shall, and the same are hereby made to constitute the third commissioner and assessor district.

What officers to be elected and term of service. SEC. 4. That the legal voters of each of the said districts shall have power to elect, at the next annual election, and biennial thereafter, one county commissioner and one assessor, who shall hold their respective offices for the term of two years, and until their successors are elected and qualified, and the duties of said officers shall be the same as is now, or may be prescribed by law; except that the assessor shall have until the first Monday in June to make their returns to the register of deeds.

This act not to interfere with, what. SEC. 5. The provisions of this act shall not be so construed as to interfere with the election of justices of the peace and constables in the several townships of Union county, as is now prescribed by law.

Conflicting acts repealed. SEC. 6. That all laws in conflict with the provisions of this act are hereby repealed, as far as relates to Union county.

When to take effect. SEC. 7. This act shall take effect and be in force from and after the first Monday in July, 1873.

Approved, January 9th, 1873.

COURT.

TURNER COUNTY.

CHAPTER 10.

AN ACT PROVIDING FOR A TERM OF THE DISTRICT COURT IN THE COUNTY OF TURNER.

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

SECTION 1. That there shall be one term, in each year, of the district court, held in the county of Turner, in the second judicial district; that said court shall be held at the county seat of said county, and that said term shall commence on the first Monday of June, if the clerk of said court, sheriff, and probate judge of said county shall direct the same to be held, and not otherwise; notice of the term of the court to be given at least twenty days prior to the sitting of the same, in a newspaper of the county, if there be one; if not, then in some paper in the nearest or adjoining county.

When term of court to be held in Turner county.

SEC. 2. It shall be the duty of said court to appoint a clerk of said court in and for said county of Turner.

Court shall appoint clerk.

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

When to take effect.

Approved, January 8th, 1873.

FERRIES.

BUFFALO COUNTY.

CHAPTER 11.

AN ACT LEGALIZING THE ACTS OF THE COUNTY COMMISSIONERS AND OF THE REGISTER OF DEEDS OF BUFFALO COUNTY. IN LEASING J. R. HANSON A FERRY CHARTER ACROSS THE MISSOURI RIVER.

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

Certain acts
legalized and
confirmed.

SECTION 1. That the acts of the county commissioners and of the register of deeds of Buffalo county, Dakota Territory, relating to the granting and leasing unto Joseph R. Hanson, a ferry charter, on or about the fourteenth day of October, A. D. 1872, under the provisions of chapter sixteen, laws of 1865-66, across the Missouri river, where the Northern Pacific Railway crosses the said Missouri river, be, and the same are hereby declared legal, and the said lease or charter, with all the rights and privileges pertaining thereto, is hereby confirmed to the said Joseph R. Hanson, his heirs, successors and assigns, for the term of five years, according to the provisions of said lease or charter.

When to take
effect.

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

Approved, January 8th, 1873.

INCORPORATIONS.

ELK POINT.

CHAPTER 12.

AN ACT TO INCORPORATE THE CITY OF ELK POINT, DAKOTA TERRITORY.

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

ARTICLE 1st--GENERAL PROVISIONS.

SECTION 1. That all that portion of territory contained in lots one and two, of the northwest quarter, and lots one and two, of the southwest quarter of section number nineteen, of township ninety-one, north of the base line of range forty-nine, west of the fifth principal meridian, and the east half of the northeast quarter, and the east half of the southeast quarter of section number twenty-four, (24) of township number ninety-one, north of the base line of range fifty, west of the fifth principal meridian, all situated in the county of Union, Dakota Territory, is hereby declared to be a corporation by the name of the city of Elk Point.

SEC. 2. The proprietor or proprietors of any land within the corporate limits of the city of Elk Point, or adjoining and contiguous to the same, may lay out said land into lots, blocks, streets, avenues, alleys and other grounds, under the name of _____ addition to the city of Elk Point, and shall cause an accurate map or plat thereof to be made out,

designating explicitly the land so laid out, and particularly describing the lots, blocks, streets, avenues, alleys and other grounds belonging to such addition. The lots must be designated by numbers, and the streets, avenues and other grounds by names or numbers, and such plat shall be acknowledged before some officer authorized to take the acknowledgment of deeds, and have appended a survey made by some competent surveyor; and said surveyor shall certify that he has accurately surveyed such addition, and that the lots, blocks, streets, avenues, alleys, parks, commons and other grounds, are well and accurately staked off and marked; and when such map or plat is so made out, acknowledged and certified, and after being approved by the mayor and council, the same shall be filed and recorded in the office of the register of deeds of Union county, and thereupon such plat shall be equivalent to a deed in fee simple from the proprietor or proprietors, of all streets, avenues, alleys, public squares, parks and commons, and such portion of the land as is therein set apart for public and city use, or is dedicated to charitable, religious or educational purposes; and all additions thus laid out within the said corporate limits shall remain a part of such city; and all additions now and hereafter laid out adjoining and contiguous to the said corporate limits, shall be included within the same, and be and become a part of such city for all purposes whatsoever; and the inhabitants of such addition shall be entitled to all the rights and privileges, and be subject to all the laws, ordinances, rules and regulations of the city to which said land is an addition: *Provided*, The mayor and council shall have control of all such additions, and shall have power, by ordinance, to compel the owners of any such additions to lay out streets, avenues and alleys, so as to have the same correspond in width and direction, and be continuations of the streets, avenues and alleys in the city or additions belonging thereto; and no addition shall have any validity, rights or privileges as an addition, unless the terms and conditions of such ordinances are complied with, and the plat thereof shall have been submitted to, and approved by the mayor and council, and such approval indorsed thereon.

SEC. 3. The city of Elk Point created and governed by the provisions of this act, shall be a body corporate and politic, and shall have power

Numbering of
lots.

Certificate of
surveyor.

Provided.

Body corpo-
rate.

- 1st. To sue and be sued. Powers.
 - 2nd. To purchase and hold real and personal property for the use of the city, and real estate sold for taxes.
 - 3rd. To sell and convey any real or personal estate owned by the city, and make such order respecting the same as may be deemed conducive to the interests of the city. Same.
 - 4th. To make all contracts, and do all all other acts in relation to the property and concerns of the city necessary to the exercise of its corporate or administrative powers, to have a common seal, and to change and alter the same at pleasure. Same.
 - 5th. To exercise such other and further powers as may be conferred by law. Same.
- SEC. 4. The powers hereby granted shall be exercised by the mayor and council of the city of Elk Point as hereinafter set forth. Powers, how exercised.
- SEC. 5. Each and every process whatever affecting said city of Elk Point, shall be served upon the mayor, or in his absence, upon the city clerk, or in the absence of both from the city, then upon the city marshal. Process, upon whom served.
- SEC. 6. The council of said city of Elk Point shall consist of three citizens of said city, who shall be qualified electors thereof, under the organic act and the laws of this Territory. Council, how composed.
- SEC. 7. On the first Monday in April, after the taking effect of this act, and on the same day in each year thereafter, an election shall be held for mayor, three aldermen, clerk, treasurer, marshal and street commissioner, each of whom shall be elected for the term of one year, commencing on the first Monday succeeding the day of their election, and shall hold their respective offices until their successors are elected and qualified. Election, when to be held, officers to be elected.
- SEC. 8. At all elections authorized by this act, the polls shall be kept open from nine o'clock a. m. until five o'clock p. m., and no longer. Hours of opening and closing polls.
- SEC. 9. The city of Elk Point shall constitute an election district, and polls shall be opened at such place therein as may be designated by the mayor, or fixed by ordinance or resolution of the council; *Provided*, That every legal voter of the Territory, who shall have been a resident of the city thirty days next preceding a city election, is declared a citi- Election district constituted, who may vote.

zen of said city, and is entitled to vote at all the elections thereof. And no person shall be eligible to any elective office mentioned in this act, unless he be a legal voter of the city, and has been a resident thereof one year next preceding his election

ARTICLE II—POWERS OF THE MAYOR AND COUNCIL.

Duties of
mayor and
council.

SEC. 10. The mayor and council of the city of Elk Point shall have the care, management and control of the city, and its property and finances, and shall have power to enact and ordain any and all ordinances not repugnant to the organic act, and the laws of this Territory, and such ordinances to alter, modify or repeal; and shall have power:

Powers rela-
tive to taxes,
how to proceed.

1st. To levy and collect taxes for general purposes, not exceeding 2 mills on the dollar in any one year, on all the property within the limits of the city, taxable according to the laws of the Territory, the valuation of such property to be taken from the assessment roll of Union county; and it shall be the duty of the county clerk of said Union county, to permit the city clerk to make out, from the assessment rolls of the county, an assessment roll for the city, of all the property liable to taxation as above specified; *Provided*, That the authorities of said city of Elk Point, shall not, in any year, issue warrants or orders to an amount greater than ninety per cent. of the amount of taxes levied for such year, and the amount actually received from other sources; and said city authorities shall not contract or incur any indebtedness in addition to the amount for which they are authorized to issue warrants, or orders, or bonds.

Relative to
sale of real es-
tate.

2nd. To provide for the sale of real estate for the non-payment of taxes due thereon, and for the time and manner of redemption of the same, and conveyance thereof; *Provided*, That the owner may redeem the same within two years after the day of sale, or at any time thereafter, until the tax deed is issued, by the payment of the full amount of tax, and all taxes subsequently paid thereon by the purchaser, and all costs, penalties and charges thereon, together with the interest at the rate of forty per cent. per annum.

Personal
property.

3rd. To provide for the sale of personal property for any taxes due from the owner thereof, or assessed upon the property to be sold.

4th. To levy and collect a license tax on runners, hawkers, peddlers, liquor sellers, pawn-brokers, taverns, dram shops, saloon keepers of any kind, brokers, shows and exhibitions for pay, billiard tables, ball and ten pin alleys, without regard to the number of pins used; hacks, drays, wagons, or other vehicles used for pay, within the city; theaters and theatrical exhibitions for pay, and to adopt all such measures as they may deem necessary for the accommodation and protection of strangers and the traveling public in person or property. To levy taxes on saloons, &c.

5th. To restrain, prohibit and suppress tippling shops, billiard tables, ten pin alleys, ball alleys, houses of prostitution and other disorderly houses and practices, games and gambling houses, desecration of the Sabbath, commonly called Sunday, and all kinds of indecencies. To restrain certain things.

6th. To make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws for that purpose, and to enforce the same within the limits of the city. Relative to diseases.

7th. To erect, establish and regulate hospitals, work houses, houses of correction and jails, and provide for the government and support of the same. Relating to hospitals, &c.

8th. To make regulations to secure the general health of the city, and to prevent and remove nuisances, and to make and prescribe regulations for the cleaning and keeping in order all slaughter houses, stock yards, warehouses, stables or other places where offensive matter is kept or liable to accumulate. Relative to general health.

9th. To establish, regulate and support night watch and police, and to define the duties thereof. Night watch.

10th. To provide for the lighting of streets, laying down of gas pipes, and erection of lamp posts, and to regulate the sale of gas and the rent of gas metres within the city. Lighting streets.

11th. To erect and establish market houses and make market places, and to regulate and govern the same, and to provide for the erection of all other useful and necessary buildings for the use of the city, and for the protection and safety of all property owned by the city, and to provide for the safety and protection of private property when damages are likely to accrue by the action of the elements, or through the carelessness or negligence of any servant or officer of the city; *Provided*, That any such improvement mentioned in this sub- Market places Proviso.

division, costing in the aggregate, a sum greater than \$500.00 shall not be authorized until the ordinance providing therefor shall be first submitted to and ratified by a majority of the legal voters of said city, voting at said election.

- Census. 12th. To provide for and cause to be taken, an enumeration of the inhabitants of the city.
- Elections. 13th. To provide by ordinance for the election of city officers, and prescribe the manner of conducting the same, and the returns thereof, and for deciding contested elections.
- Removals. 14th. To provide for removing officers of the city for misconduct, and to create any office or employ any agent they may deem necessary for the good government and interests of the city.
- Imposing, and collecting fines. 15th. To regulate the police of the city, and impose fines, forfeitures and penalties for the breach of any ordinance, and provide for the recovery and collection thereof, and in default of payment to provide for confinement in the city prison, or for hard labor in the city.
- Pay of officers 16th. To regulate and prescribe the duties and powers and compensation of all officers and servants of the city not herein provided for.
- Bonds of officers. 17th. To require of all officers and servants elected or appointed in pursuance of this act, bond and security for the faithful performance of their duties; and no officer shall become security upon the official bond of another.
- City bonds, amount to be issued. 18th. To issue bonds of the city not to exceed \$5,000.00 in amount and for such length of time, not to exceed twenty years, and at such rate of interest as they may deem proper, not to exceed ten per cent. per annum; said bonds to express upon their face the purpose for which they were issued, and under what ordinance, and may have interest coupons attached; *Provided*, No such bonds shall be issued for any purpose, unless at a regular or special election, after twenty days, public notice, stating distinctly the purpose and object for which said bonds are to be issued, and the amount thereof, the electors of said city, by a majority of the legal votes at said election shall determine in favor of issuing said bonds, which said bonds shall in no case be diverted from the object for which they are issued, and shall not be disposed of by the city at less than ninety per cent. of their face.
- Proviso.

- 19th. To provide for the prevention of cruelty to animals. Cruelty to animals.
- 20th. To appropriate money, and provide for the payment of the debts and expenses of the city. Appropriation.
- 21st. To regulate, license or prohibit the sale of domestic animals, or of goods, wares or merchandise, at public auction on the streets, alleys, highways, or any public grounds within the city. Regulate internal commerce.
- 22nd. To regulate, license or prohibit the auctioneering of goods, wares and merchandise, brought into the city for the purpose of being sold at auction. Auctioneering.
- 23rd. To name and to re-name streets, avenues, parks and squares within the city. Naming streets.
- 24th. To prohibit, on the petition therefor of not less than two-thirds of the owners of the ground included in any square or block, the erection of any building, or addition to any building, more than ten feet high, unless the outer walls thereof be made of brick and mortar, or of iron, or stone and mortar; and to provide for the removal of any buildings or additions erected contrary to such prohibition. Prohibit the erection of buildings.
- 25th. To lay out the city into districts for the purpose of establishing a system of sewerage and drainage, and to levy and collect a special tax upon real estate in any such district for the purpose of constructing sewers and drains therein. Sewerage.
- 26th. To erect and construct water works either within or without the corporate limits of the city, and to make all needful rules and regulations concerning the use of water supplied by such water works, and to do all acts necessary for the construction, completion, management and control of the same. Water works.
- 27th. To provide for the organization and support of fire companies, and to establish regulations for the prevention and extinguishment of fires. Fires.
- 28th. To act as a board of equalization for the city, to equalize assessments, and to correct any error in the listing or valuation of property, and to supply any omissions in the same; and to make a general increase in the valuation of real estate, as in their judgment they may deem proper; such increase not to exceed twenty per cent. of the valuation for county purposes. To equalize taxes.

- Reports.** 29th. To require from any city officer of the city at any time, a report in detail of the transactions in his office, or of any matter connected therewith.
- Fast driving.** 30th. To prevent horse racing and immoderate riding or driving in the streets, and to compel persons to fasten their horses or other animals attached to vehicles, while standing in the streets.
- Magazines.** 31st. To regulate the transportation and keeping of gun powder and other combustibles and explosive articles.
- Public grounds.** 32nd. To purchase, hold and improve public grounds and parks, and to provide for the protection and preservation of the same.
- Private property.** 33rd. To appropriate private property for the use of the city.
- Disorderly person.** 34th. To provide for the punishment of persons disturbing the good order and quiet of the city by clamor and noise, by intoxication, drunkenness, fighting, using obscene or profane language in the streets or other public places, to the annoyance of citizens, or otherwise violating the public peace by indecent and disorderly conduct; or by lewd or lascivious behavior; and to provide for the punishment of vagrants, common street beggars, common prostitutes, habitual disturbers of the peace, known and notorious pickpockets, gamblers, burglars, thieves, watch-stuffers, ball game players, persons who practice any trick, game or devise with intent to swindle, persons who abuse their families, and suspicious persons who can give no reasonable account of themselves, and such punishment may be either by imposing and collecting fines, or by imprisonment at hard labor, or both, at the discretion of the court; *Provided*, That no such person shall be fined for a single offense to exceed fifty dollars, and that such imprisonment at hard labor, shall for the first offense not exceed thirty days, for the second offense sixty days, for the third offense ninety days, and they shall have power to provide that all persons who shall refuse or neglect to pay the fine imposed, on conviction of any offense, together with the costs of prosecution, shall be imprisoned and kept at hard labor until, at the rate of seventy-five cents per each days' labor, exclusive of Sundays, they shall have earned an amount equal to such fine and costs. They shall also have power to make suitable
- Penalties.**

regulations to conduct such labor to the best advantage, and in a manner consistent with the age, sex and health of the prisoners, and such labor may be done at the city prison, or elsewhere, under the charge of officers or other persons, as the mayor and council may select; *Provided, however,* That no person shall for the first offense be sentenced to work outside an enclosure. And they shall have power also to provide suitable hospitals for the reception and care of such prisoners as may be diseased or disabled, the same to be under such regulations and under the charge of such persons as the mayor and council may by ordinance direct.

Proviso.

Shall provide hospitals.

35th. To provide for filling such vacancies as may occur in the office of Alderman, or other elective officer of the city, by calling special elections for that purpose.

To provide for filling vacancies.

SEC. 11. All ordinances of the city shall be passed pursuant to such rules and regulations as the mayor and council may prescribe: *Provided,* That upon the passage of all ordinances the yeas and nays shall be entered upon the record of the city council, and a majority of the votes of all the members of said council shall be necessary to their passage; *Provided,* A majority of all the members elected shall constitute a quorum.

Manner of passing ordinances.

SEC. 12. All ordinances of the city may be proven by the ordinance book or the certificate of the clerk under the seal of the city; and when printed or published in a book or pamphlet form, and purporting to be published or printed by authority of the city, shall be read and received in all courts, and places without further proof.

How ordinances may be proven.

SEC. 13. The mayor and council shall cause to be published semi-annually, a statement of the receipts and expenditures, and the financial condition of the city.

Publication of ordinances.

SEC. 14. The mayor and council shall have power to establish by ordinance the grade of any street, alley, avenue or lane within the city; and when the grade of such street, alley, avenue or lane shall have been established, such grade shall not be changed except by a vote of two-thirds of the council, and not then until the damages to property owners which may be caused by such change of grade, shall have been assessed and determined by three disinterested appraisers, who shall be appointed by the mayor with the consent of the council.

Grading streets.

Damages.

for that purpose, who shall make such appraisement, taking into consideration the benefits, if any, to such property, and file their report with the city clerk within ten days after receiving notice of their appointment; and the amount of damages so assessed shall be tendered to such property owners, or their agents, before any such change of grade shall be made.

Improvement
and extension
of streets.

SEC. 15. The mayor and council shall have power to extend, open, widen, grade, pave, macadamize, or otherwise improve and keep in repair in any manner they may deem proper, any street, sidewalk, alley, avenue or lane within the limits of the city; and to defray the cost and expense of such improvements, or any of them; the mayor and council shall have power to levy and collect special taxes upon the lots and pieces of ground adjacent to and abutting upon the streets, sidewalks, alleys, avenues or lanes thus opened, widened, extended or improved, or to be improved as aforesaid.

Certain taxes
how levied.

SEC. 16. Such taxes shall be levied on all the lots and lands bounding or abutting on such improvement, said tax to be either in proportion to the feet front so abounding or abutting, or according to the value of such lots or lands (exclusive of improvements thereon) as shown by the last assessment for general city purposes, as the mayor and council may determine. And the mayor and council is hereby required to provide for ascertaining the value of the improvements, in order that the same may be deducted from the valuation of such real estate for general city purposes, in case such special tax is to be levied upon the basis of valuation; *And provided*, That when such improvement shall extend into or through any unsubdivided tract or parcel of land, said taxes shall be so levied, if upon the basis of valuation, as not to be charged against the real estate adjoining such improvement, for a greater depth than the average distance through the subdivided real estate to be taxed for said purpose.

Proviso.

To keep side-
walks in repair

SEC. 17. The mayor and council shall have the power to provide for keeping sidewalks clean and free from all obstructions and accumulations, and may provide for the assessment and collection of taxes on unoccupied real estate, and for the sale and conveyance thereof to pay the expenses of keeping the sidewalks adjacent to such real estate clean and free from obstructions and accumulations as herein provided.

SEC. 18. The mayor and council shall have power to require ^{Draining of stagnant water.} all lots or pieces of ground within the city to be drained or filled, when necessary, to prevent stagnant water or any other nuisance accumulating therein; and upon the failure of the owners of such lots or pieces of ground to fill or drain the same when so required, to cause such lots or pieces of ground to be drained or filled; and the cost and expense thereof shall be levied upon the property so filled or drained, and collected as other special taxes.

SEC. 19. When the council shall deem it necessary to open, ^{Improvement of streets, &c.} widen, extend, grade, pave, macadamize, bridge, curb, gutter, drain, or otherwise improve any street, sidewalk, alley, avenue or lane within the limits of the city, for which a special tax is to be levied as herein provided, the mayor and council shall, by resolution, declare such work or improvement necessary to be done; and such resolution shall be published for four consecutive weeks in the official newspaper of the city; and if a majority of the resident owners of the property liable to taxation therefor, shall not within twenty days thereafter file with the city clerk of said city, their protest against such improvement, then the mayor and council shall have power to cause such improvement to be made and to contract therefor, and to levy and collect the taxes as herein provided.

SEC. 20. Such special taxes shall be due and may be collected ^{Special taxes how collected.} as the improvements are completed in front of, or along or upon any block or piece of ground, or at the time the improvement is completed according as shall be provided in the ordinance levying the tax. Such tax, if not paid within thirty days after becoming due, shall have added thereto a penalty of ten per cent., and shall bear interest from the day of sale, at the rate of twenty-five per cent. per annum, to be computed on the tax, penalty and costs of sale.

SEC. 21. The cost and expenses of grading, filling, paving; ^{Certain expenses to be included in special tax.} macadamizing, culverting, curbing and guttering, or otherwise improving streets, sidewalks, alleys, avenues or lanes at their intersections, may be included in the special tax levied for the improvement of any street, sidewalk, alley, avenue or lane, as may be deemed best by the mayor and council.

SEC. 22. When the special tax is levied, it shall be the duty of the street commissioner of the city to calculate the ^{Duties of street commissioner when special tax is levied.}

amount of the tax on any block, or piece of ground, and file a statement thereof with the city clerk, who shall, as soon as the tax is due on any block or piece of ground, issue a certificate describing it by its number and block, and stating the amount of tax due thereon, and the name of the person entitled to the same, and the purpose for which said tax was levied; and such certificate so given shall be the tax warrant of the contractor, and shall be by the clerk placed in the hands of the Treasurer, who shall give notice through the official paper of the city when the penalty will accrue; and he shall keep a record of all such warrants, and enter in the margin of such records all amounts paid and by whom paid.

Sufficient description of realty.

SEC. 23. It shall be sufficient in any case to describe the lot or piece of ground as the same is platted or recorded, although the same may belong to several persons; but in case any lot or piece of ground belongs to different persons, the owner of any part thereof may pay his proportion of the tax on such lot or piece of ground, and his proper share may be determined by the city treasurer.

Mayor and council may provide for sale of ground.

SEC. 24. The mayor and council shall have power to provide for the sale and conveyance of any lot or piece of ground for non-payment of such taxes, and the deed given to convey the same may be recorded in the office of register of deeds of the county, as other conveyances. The conveyance shall be to the person owning the certificate of sale at the time such conveyance is given; *Provided*, That any lot or piece of ground may be redeemed within two years after the day of sale, or at any time thereafter until the tax deed is issued, by paying to the treasurer the tax, penalty, costs, and interest at the rate of forty per cent per annum. Lots or lands belonging to minors, or any interest they may have in any lands sold for special taxes, may be redeemed in the same manner at any time before such minor becomes of age and during one year thereafter.

Provided

Duty of street commissioner when improvement is completed

SEC. 25. When any improvement mentioned in this act is completed according to contract, it shall be the duty of the street commissioner of the city to carefully inspect the same, and if the improvement is found to be properly done, such *engineer* [street commissioner] shall accept the same and forthwith report his acceptance thereof to the city council, who

may confirm or reject such acceptance. When the ordinance levying the tax makes the same due as the improvement is completed in front of, or along any block or piece of ground, then the *engineer* [street commissioner] may accept the same in sections, from time to time, if found to be done according to contract, always reporting his acceptance to the city council for confirmation or rejection.

SEC. 26. Special taxes shall be a lien on the lots or pieces of ground subject to the same, from the time the amount thereof shall have been ascertained, and in case any error or irregularity should occur in levying or collecting any such special tax, proceedings may be taken anew, so as to obviate any such error or irregularity.

SEC. 27. Whenever it shall become necessary to appropriate private property for the use of the city, and such appropriation shall be declared necessary by resolution, the mayor, with the approval of the council, shall appoint three disinterested freeholders of the city, who, after being first duly sworn to perform the duties of their appointment with fidelity and impartiality, shall assess the damage to the owners of the property, respectively, by such appropriation. Such assessment shall be reported to the council, and when confirmed by them the damages shall be payable as provided in the next section.

SEC. 28. Such damages shall be paid to the owners of such property, and be deposited with the city treasurer, subject to the order of such owners, respectively, before such property shall be taken for the use of the city.

SEC. 29. If the assessment of the freeholders be not confirmed by the council, proceedings may be taken anew to assess the damages.

SEC. 30. The mayor and council are hereby required to make provisions for a sinking fund, to redeem at maturity the bonded indebtedness of the city, and the tax levied for the sinking fund shall be paid in cash.

SEC. 31. The mayor and council shall make provisions for the payment of interest on the bonds of the city; and taxes levied for the payment of such interest shall be payable in cash.

Sinking fund may be used for purchase bonds before maturity

SEC. 32. The sinking fund to redeem at maturity the bonded indebtedness of the city, may be used to purchase such bonds before maturity, on such terms and in such manner as may be prescribed by an ordinance to be enacted for that purpose: *Provided*, That bond holders shall be given an opportunity to compete for the sale of bonds held by them; and the bonds that can be purchased upon the most favorable terms shall be preferred.

How money shall be expended

SEC. 33. No money shall be expended or payment made by the city, except in pursuance of a specific appropriation made for that purpose by ordinance or resolution. And the residents of said city shall be exempt from the payment of a poll tax for the benefit of roads as required under the present laws relating to roads; but in lieu thereof the mayor and council of said city shall have power to require each able-bodied male person between the ages of 21 and 55 years, resident within the city, to perform by himself or substitute, in each and every year, one day's labor upon the streets and highways of said city; *Provided*, That such labor, when so required, may be commuted by the payment of the sum of two dollars in each year, to be expended upon the streets and highways where such labor would have been applied.

Who shall work upon streets

Provision for payment of indebtedness

SEC. 34. At the first meeting in each month the mayor and council shall provide, by ordinance or resolution for the payment of all liabilities of the city incurred during the preceding month, or at any time previous thereto.

Mayor may veto ordinances appropriating money

SEC. 35. Any ordinance or resolution appropriating money shall be subject to the veto of the mayor as any other ordinance; and the mayor may veto any single item in any such ordinance over fifty dollars, and if such item be not passed on a reconsideration thereof, the veto of the mayor to the contrary notwithstanding, in the same manner as in other ordinances, such items shall be stricken out and shall not be allowed or paid by the city.

ARTICLE III.—MAYOR.

Veto power of the mayor

SEC. 36. The mayor shall have power to sign or veto any ordinance or resolution passed by the city council. Any ordinance or resolution vetoed by the mayor may be passed over the veto by a vote of two-thirds of the whole number of

aldermen elected, notwithstanding the veto; and should the mayor neglect or refuse to sign any ordinance, or return the same with his objections, in writing, within ten days, the same shall take effect without his signature.

SEC. 37. All orders and drafts upon the treasury for money shall be signed by the mayor, and shall be attested by the city clerk, who shall also affix the seal of the city, and keep an accurate record thereof in a book to be provided for that purpose.

Mayor shall sign orders

SEC. 38. The mayor shall have the superintending control of all the offices and affairs of the city, and shall take care that the ordinances of the city and this act are complied with.

Mayor has control of officers

SEC. 39. He shall sign the commissions or appointments of all the officers appointed in the city government.

Shall sign commissions

SEC. 40. He shall be a conservator of the peace throughout the city, and shall at all times have power by and with the consent of the city council, to appoint any number of special policemen which he may deem necessary to preserve the peace of the city, and to dismiss the same at pleasure.

Mayor shall be conservator of peace

SEC. 41. He shall from time to time communicate to the city council such information, and recommend such measures as in his opinion may tend to the improvement of the finances of the city, the police, health, security, ornament, comfort and general prosperity of the city.

Duty of the mayor

SEC. 42. The mayor or any two aldermen, shall have power to call special meetings of the council, the object of which shall be submitted to the council in writing, and the call and object as well as the disposition thereof, shall be entered upon the journal of the council.

Duty of mayor and aldermen

SEC. 43. The mayor shall have power, when he deems it necessary to require any officer of the city to exhibit his accounts or other papers, and to make report to the council in writing, touching any subject or matter he may require, pertaining to his office.

City officers shall make exhibits

SEC. 44. The mayor shall be active and vigilant in enforcing all laws and ordinances for the government of the city, and he shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty; he shall have jurisdiction as may be vested in him by ordinance, over all

Enforcement of laws and ordinances

places within the corporate limits of the city, for the enforcement of any health or quarantine ordinance or regulation thereof.

Vacancy in
office of mayor,
how filled

SEC. 45. When any vacancy shall happen in the office of mayor by death, resignation, absence from the city, removal from office, refusal to qualify, or otherwise, the council shall, by vote of a majority of all the aldermen elected, elect from their number a mayor pro tem, who shall exercise the office of mayor, with all the rights, privileges and jurisdiction of the regular mayor, until such vacancy is filled, or such disability be removed; or in case of temporary absence, until the mayor shall return; and during the time, he shall receive the same compensation that the mayor would be entitled to, the same to be deducted from the salary of the mayor; and in case of such vacancy other than temporary absence or disability, the person exercising the office of mayor shall forthwith cause a special election to be held, giving ten (10) day's notice thereof by proclamation.

When certifi-
cates of elec-
tion shall be
made out

SEC. 46. At the first meeting of the city council, after any general election for city officers, they shall cause to be made out and certified by the clerk, a certificate of the election of such officers as are required to be elected by this act; and a neglect of any such officer to qualify within ten days after the delivery of such certificate to him, shall be deemed a refusal to accept the office to which he shall have been elected.

When citizens
shall aid in pre-
serving peace

SEC. 47. The mayor is hereby authorized to call on every male inhabitant of the city, over eighteen years of age, and under the age of fifty years, to aid in enforcing the laws and ordinances of the city; or to aid in the suppression of any riot, or in the enforcement of any ordinance; and any person who shall not obey such call, shall forfeit to the city a fine not exceeding one hundred dollars.

Mayor may
remit fines

SEC. 48. The mayor shall have power to remit fines and forfeitures, to grant reprieves and pardons for all offenses arising under the ordinances of the city, by and with the consent of the council.

What officers
may be appoin-
ted by mayor

SEC. 49. The mayor shall have power, by and with the consent of the council, to appoint all officers other than those provided for in this act, that may be deemed by him necessary for the good government and efficient police of the city;

and to remove from office, by and with the consent of the council, any person holding an office created by ordinance.

ARTICLE IV--CITY JUSTICE OF THE PEACE.

SEC. 50. A city justice of the peace shall be appointed by the mayor and council. The city justice of the peace shall have exclusive jurisdiction, and it shall be his duty to hear and determine all offenses against the ordinances of the city, and concurrent jurisdiction with other justices, and of misdemeanors under the laws of the Territory, arising within the limits of the city, when the fine which may be imposed does not exceed one hundred dollars, or the imprisonment, ninety days; and shall also have jurisdiction for the examination of offenders against the laws of the Territory, for offenses arising within the city limits, and shall have jurisdiction in civil cases as provided by law for justices of the peace elected for the county at large.

City justice of peace, his powers and duties.

SEC. 51. Whenever complaint shall be made to the city justice of the peace, upon the oath or affirmation of any person competent to testify against the accused, that an offense has been committed, of which the city justice of the peace has jurisdiction, said justice shall forthwith issue a warrant for the arrest of the offender, which warrant shall be served by the city marshal, or the sheriff of the county, or some person specially appointed by said justice for that purpose.

Duty of city justice of peace when complaint is made.

SEC. 52. When any person shall be brought before the said justice, upon such warrant, it shall be his duty to hear and determine the complaint alleged against the defendant.

Proceedings when prisoner is arraigned.

SEC. 53. Upon good cause shown, said justice may postpone the trial of the case to a day certain, in which case he shall require the defendant to enter into recognizance with sufficient security, conditioned that he will appear before such justice at the time and place appointed, then and there to answer the complaint alleged against him.

Justice may postpone trial in certain cases.

SEC. 54. It shall be the duty of the said justice to summon all persons whose testimony may be deemed material as witnesses at the trial, and to enforce their attendance by attachment if necessary; and when a trial shall be continued by said justice, he may verbally notify such witnesses as may be present at the continuance, to attend before him, to testify in the cause set for trial; and such verbal notice shall be as valid as a summons.

Justice compel attendance of witnesses.

How trials shall be governed.

SEC. 55. All trials before the said justice for misdemeanors, arising under the laws of the Territory, shall be governed by the criminal procedure, applicable to justices' courts in like cases.

Judgment, and how enforced.

SEC. 56. In all trials for offenses under the ordinances of said city, if the defendant is found guilty, said justice shall render judgment accordingly. It shall be part of the judgment that the defendant stand committed until the judgment be complied with; in no case to exceed one day, for every seventy-five cents of the fine and costs assessed against said defendant.

When justice's court shall be open.

SEC. 57. Said justice shall be a conservator of the peace, and his court shall be open every day except Sunday, to hear and determine any and all cases cognizable before him; and he shall have power to bring parties forthwith before him for trial; and no act shall be performed by him on Sunday, except to receive complaints, issue process and take bail.

Appeals allowed in certain cases.

SEC. 58. In all cases before the said justice, arising under the ordinances of the city, wherein the fine assessed exceeds ten dollars, or the imprisonment two days, an appeal may be taken by the defendant to the district court of Union county; but no appeal shall be allowed unless such defendant shall, (in case of fine) within ten days, (and in case of imprisonment) within twenty-four hours, enter into recognizance, with sufficient securities, to be approved by said justice conditioned in case of fine, for the payment of said fine and costs and costs of appeal, and in case of judgment of imprisonment, that he will render himself in execution thereof, if it should be determined against the appellant.

Justice shall not remit fines.

SEC. 59. Any person convicted before the said justice of an offense under the ordinances of the city, shall be punished by fine and imprisonment, as may be regulated by ordinance, and under no circumstances shall such justice remit fines or penalties, on payment of costs or otherwise.

Vacancy in office of city justice, how filled.

SEC. 60. In case of a vacancy in the office of city justice of the peace, by death, resignation or otherwise, or in case of his absence, interest or disability to perform his duty, it shall be the duty of any acting justice of the peace within the city, who shall be designated by the mayor, to act as city justice of the peace during such vacancy, absence or disability, in the trial of causes cognizable before the said justice.

SEC. 61. If upon any trial under the provisions of this act, it shall appear to the satisfaction of the city justice of the peace, or the jury, (in cases arising under the laws of the Territory,) that the prosecution was commenced without probable cause, or from malicious motives, the jury or justice trying the case shall state the name of the prosecutor or prosecutors in the finding, and shall impose the costs of the prosecution upon him or them, and judgment shall be rendered against such prosecutor or prosecutors, that he or they pay such costs, and stand committed until the same are paid.

Proceedings
in case of ma-
licious prosecu-
tion.

SEC. 62. The city justice of the peace shall have power to enforce due obedience to all orders, rules, judgments and decrees made by him; and he may fine or imprison for contempt offered to him while holding his court, or to process issued, or orders made by him in the same manner and to the same extent as provided for justice courts. On the trial of any case in said court, it shall be the duty of the city justice of the peace to sign any bill of exceptions rendered to the court during the progress of such trial; *Provided*, The truth of the matter be fairly stated, and thereupon said exceptions shall be entered in the record of such trial and become a part thereof; and any final conviction, sentence or judgment of said court may be examined by the district court on writ of error, except in cases mentioned in section sixty-one, which may be allowed by the said district court or the judge thereof, for sufficient cause, and proceedings may be stayed as may be deemed reasonable, and the revising court shall, in such proceedings take judicial notice of all the ordinances of said city. Cases before the city justice of the peace, arising under the city ordinances, shall be tried and determined by the justice without the intervention of a jury, unless the defendant demand a trial by jury; and when a demand shall be so made, the trial shall be by a jury as in other cases in said court for misdemeanors, arising under the laws of the Territory. And in all trials by a jury in said court, challenges shall be allowed in the same manner and for the same causes as in the district court, in cases of misdemeanors; except that, if either party object to the competency of a juror, the question thereon must be tried in a summary manner by the justice, who may examine the juror or other witness under oath.

How trials
shall be con-
ducted in jus-
tice's court.

Proceedings
in case of ex-
ceptions

Government
of cases not
specifically pro-
vided for

SEC. 63. In all cases not herein specially provided for, the process and proceedings of said court shall be governed by the laws regulating proceedings in justices courts in criminal cases.

ARTICLE V.—TREASURER.

Duties of city
treasurer

SEC. 64. The city treasurer shall receive all moneys belonging to the city, and shall keep his books and accounts in such manner as the mayor and council may prescribe; and such books and accounts shall be always subject to the inspection of the mayor or any member of the city council.

Warrants, by
whom signed

SEC. 65. All warrants drawn upon the treasury must be signed by the mayor, and countersigned by the clerk, stating the particular fund or appropriation to which the same is chargeable, and the person to whom chargeable; and no money shall be otherwise paid than upon such warrants so drawn, except as hereinafter provided.

Treasurers
shall keep sep-
arate accounts

SEC. 66. The city treasurer shall keep a separate account of such fund or appropriation, and the debts and credits belonging thereto.

Shall give du-
plicate receipts

SEC. 67. The city treasurer shall give every person paying money into the city treasury, a duplicate receipt therefor, specifying the date of payment, and upon what account paid; and he shall also file copies of such receipts with the clerk at the date of his monthly report.

When and to
whom reports
shall be made

SEC. 68. The city treasurer shall, at the end of each and every month, and oftener if required, render an account to the mayor and city council, or such officer as the mayor and city council may designate, showing the state of the treasury at the date of such account, and the balance of money in the treasury. He shall also accompany such accounts with a statement of all moneys received into the treasury, and on what account, together with all warrants redeemed and paid by him, which said warrants, with any and all vouchers held by him, shall be delivered by the clerk, and filed with his said account in the clerk's office upon every day of such settlement, taking their receipt for the same. He shall return all warrants paid by him stamped or marked "paid," and shall give a list of said warrants, stating the number and amount of each.

SEC. 69. The city treasurer shall keep all moneys in his hands belonging to the city, separate and distinct from his own moneys; and he is hereby expressly prohibited from using, either directly or indirectly, the corporation money or warrants in his custody and keeping, for his own use and benefit, or that of any other person or persons whomsoever; any violation of this provision shall subject him to immediate removal from office by the city council, and upon conviction thereof they are hereby authorized to declare such office vacant; and the city council shall appoint a successor of the term unexpired of such officer so removed.

Manner of
keeping city
moneys. &c

SEC. 70. The city treasurer shall report to the mayor and council at such time as may be prescribed by ordinance, giving a full and detailed account of all receipts and expenditures during and since his last report, and the state of the treasury. He shall also keep a register of all warrants, redeemed and paid during the year, describing such warrants, their date, amount, number, the fund from which paid, and person to whom paid, specifying also, the time of payment; and all such warrants shall be examined by the finance committee at the time of making such report.

Treasurer
shall make re-
port

SEC. 71. All moneys received on any special assessment shall be held by the treasurer as a special fund, to be applied to the payment of the improvement for which the assessment was made; and said money shall be used for no other purpose whatsoever.

Special as-
sessments, how
applied

SEC. 72. The treasurer shall be collector of taxes for the city, and shall give bonds in a sum not less than two thousand dollars, and in such further sum as may be provided by ordinance, said bond to be approved by the mayor and council, for the honest and faithful performance of the duties of his office, said bond to be filed in the office of the clerk of the city.

Treasurer
shall be collec-
tor of taxes

ARTICLE VI.—MISCELLANEOUS.

SEC. 73. The marshal shall possess the powers of constable in the service of a process, and may arrest offenders within or without the city limits, for offenses committed within the same; and shall at all times have power to make or order an arrest upon view of an offense being committed, with or with-

Powers and
duties of city
marshal

out process, for an offense against the laws of the Territory, or the ordinances of the city, and bring the offender to trial or examination before the proper officers of the city; *Provided*, That any person arrested for an offense without process, shall be entitled, on demand before trial, to have filed a complaint on oath, in writing.

Policemen,
their powers

SEC. 74. The policemen of the city shall have power to arrest all offenders against the laws of the Territory or ordinances of the city by day or by night, and keep them in the city prison to prevent their escape until they can be brought before the proper officer.

To whom
marshal sub-
ject

SEC. 75. The marshal, in the discharge of his duties, shall be subject to the order of the mayor and city justice of the peace only, and shall be ex-officio chief-of-police.

To whom po-
licemen subject

SEC. 76. The policemen of the city, in the discharge of their duties, shall be subject to the orders of the mayor and marshal only.

Duty of may-
or and council

SEC. 77. When, by this act, the power is conferred upon the mayor and council to do and perform any act or thing, and the manner of exercising the same is not specifically pointed out, the mayor and council may provide by ordinance the details necessary for the full exercise of such power.

Powers and
duties of offi-
cers to be de-
duced by ordi-
nance

SEC. 78. The duties, powers and privileges of all officers of every character, in any way connected with the city government, not herein defined, shall be defined by ordinance, and the defining by this act of the duties of the city officers, shall not preclude the mayor and council from defining by ordinance further and additional duties to be performed by any such officer.

City property
exempt from
taxation

SEC. 79. Lands, houses, moneys, debts due the city, and property and assets of every description, belonging to said city, shall be exempt from taxation, and sale on execution: judgments against the city shall be paid out of the general fund, or by a tax to be assessed upon the taxable property of the city.

Fines to be
paid into city
treasury

SEC. 80. All fines, penalties and forfeitures collected for offenses against the ordinances of the city, and all fines, penalties and forfeitures collected within the city for misdemeanors against the laws of the Territory, shall be paid into the city treasury by the officer receiving or collecting the same.

SEC. 81. Any officer of the city, or member of the council, who shall by himself or agent become a party to, or in any way interested in any contract, work or letting under the authority of the city, or who shall, either directly or indirectly, by himself or other party, accept or receive any valuable consideration or promise, for his influence or vote, shall be fined in any sum not less than one hundred dollars, nor more than one thousand dollars, one-half of which shall go to the informer, and the balance to be paid into the city treasury, by the officer collecting or receiving the same.

Offenses committed by city officers, and how punished

SEC. 82. The several officers of said city hereinafter named, shall for the year 1873, receive the compensation fixed by this act, and no more; and it is hereby made the duty of the mayor and council to fix by ordinance the compensation to be paid the several officers provided for in this act, and such other officers as may be appointed by the mayor and council for said city:

Compensation of city officers

1st. The mayor shall receive for the year 1873, the sum of five dollars.

Salary of mayor

2nd. The members of the council shall each receive for the year 1873, the sum of three dollars.

Salary of councilmen

SEC. 83. Any member of the city council may be expelled or removed from office by a vote of two-thirds of all the members of the city council; and any officer elected by the votes of the city, or of any ward, or district, may be removed from office by a vote of two-thirds of all the members of the city council; and the mayor and council shall make provisions by ordinance for preferring charges, and trying the same, and to enable the mayor and council to fully investigate charges made against such officers, or such other matters as they may deem proper, the mayor or the city justice of the peace at the request of the council, are hereby required to issue subpoenas and compulsory process to compel the attendance of persons, and the production of books and papers, before the council or any committee of the same.

Made of expelling and removing councilmen and city officers

SEC. 84. That J. A. Wallace, Charles H. Freeman and J. H. Shanard, are hereby appointed commissioners to conduct the first election under this act, who, or a majority of whom

Commissioners to conduct first election

are to canvass the votes, and to issue certificates of election to the several officers elect; and whose duty it shall also be to fix the place for holding the first election of officers under this act, by giving at least five days' notice of such election, by printed or written notices.

When to take effect.

SEC. 85. That this act shall take effect and be in force from and after its passage.

Approved, January 10th, 1873.

YANKTON.

CHAPTER 13.

AN ACT TO INCORPORATE THE CITY OF YANKTON, DAKOTA TERRITORY.

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

ARTICLE I—GENERAL PROVISIONS.

Limits of the city of Yankton defined

SECTION 1. That all that portion of territory embraced in entire sections seven and eighteen, township ninety-three, north of range fifty-five west, and entire sections twelve and thirteen, township ninety-three north of range fifty-six west, in Yankton county, together with the inhabitants residing thereon, be, and the same is hereby declared to be a corporation by the name of the "City of Yankton," and the south line of said city shall extend to the middle of the main channel of the Missouri river.

SEC. 2. The corporate limits of the city of Yankton shall remain as heretofore incorporated, except as changed by the provisions of this section. The proprietor or proprietors of any land within the corporate limits of the city of Yankton, or adjoining and contiguous to the same, may lay out said land into lots, blocks, streets, avenues, alleys and other grounds, under the name of ——— addition to the city of Yankton, and shall cause an accurate map or plat thereof to be made out, designating explicitly the land so laid out, and particularly describing the lots, blocks, streets, avenues, alleys and other grounds belonging to such addition. The lots must be designated by numbers, and the streets, avenues and other grounds by names or numbers, and such plat shall be acknowledged before some officer authorized to take the acknowledgment of deeds, and have appended a survey made by some competent surveyor, and said surveyor shall certify that he has accurately surveyed such addition, and that the lots, blocks, streets, avenues, alleys, parks, commons and other grounds, are well and accurately staked off and marked: and when such map or plat is so made out, acknowledged and certified, and after being approved by the mayor and council, the same shall be filed and recorded in the office of the register of deeds of Yankton county, and thereupon such plat shall be equivalent to a deed in fee simple from the proprietor or proprietors, of all streets, avenues, alleys, public squares, parks and commons, and such portion of the land as is therein set apart for public and city use, or is dedicated to charitable, religious or educational purposes; and all additions thus laid out within the said corporate limits shall remain a part of such city: and all additions now and hereafter laid out adjoining and contiguous to the said corporate limits, shall be included within the same, and be and become a part of such city for all purposes whatsoever; and the inhabitants of such addition shall be entitled to all the rights and privileges, and be subject to all the laws, ordinances, rules and regulations of the city to which said land is an addition: *Provided*, The mayor and council shall have control of all such additions, and shall have power, by ordinance, to compel the owners of any such additions to lay out streets, avenues and alleys, so as to have the same correspond in width and direction, and be continuations of the streets, ave-

When additions may be made, and manner of making them.

Numbering of lots.

Certificate of surveyor.

Proviso.

nues and alleys in the city or additions belonging thereto: and no addition shall have any validity, rights or privileges as an addition, unless the terms and conditions of such ordinances are complied with, and the plat thereof shall have been submitted to, and approved by the mayor and council, and such approval indorsed thereon.

Right of prop-
erty not affect-
ed

SEC. 3. No right of property accrued to said city of Yankton, or any corporation, or person, under any law heretofore in force, shall be affected by this act.

Body corpo-
rate.

SEC. 4. The city of Yankton created and governed by the provisions of this act, shall be a body corporate and politic and shall have power

Powers.

1st. To sue and be sued.

Same.

2nd. To purchase and hold real and personal property for the use of the city, and real estate sold for taxes.

Same.

3rd. To sell and convey any real or personal estate owned by the city, and make such order respecting the same as may be deemed conducive to the interests of the city.

Same.

4th. To make all contracts, and do all other acts in relation to the property and concerns of the city necessary to the exercise of its corporate or administrative powers, to have a common seal, and to change and alter the same at pleasure.

Same

5th. To exercise such other and further powers as may be conferred by law.

Powers, how
exercised.

SEC. 5. The powers hereby granted shall be exercised by the mayor and council of the city of Yankton as hereinafter set forth.

Number of
wards and how
designated.

SEC. 6. The city of Yankton shall be divided into four wards, named respectively, the first, second, third and fourth wards.

Process, up-
on whom serv-
ed.

SEC. 7. Each and every process whatever affecting said city of Yankton, shall be served upon the mayor, or in his absence, upon the city clerk, or in the absence of both from the city, then upon the city marshal.

Council, how
composed.

SEC. 8. The council of said city of Yankton shall consist of eight citizens of said city, being two from each ward, who shall be qualified electors of their respective wards, under the organic act and the laws of this Territory.

SEC. 9. On the first Monday in April, after the taking effect of this act, and on the same day in each year thereafter, an election shall be held for mayor, eight aldermen, clerk, treasurer, marshal, city engineer and street commissioner, each of whom shall be elected for the term of one year, commencing on the first Monday succeeding the day of their election, and shall hold their respective offices until their successors are elected and qualified.

Election when to be held, officers to be elected.

SEC. 10. At all elections authorized by this act, the polls shall be kept open from nine o'clock a. m. until five o'clock p. m., and no longer.

Hours of opening and closing polls.

SEC. 11. Each ward shall constitute an election district, and polls shall be opened at such place therein as may be designated by the mayor, or fixed by ordinance or resolution of the council: *Provided*, That when any ward shall contain over three hundred legal voters, the mayor and council may, by ordinance, re-district said city, and increase the number of wards to six; and when so re-districted, each of said wards shall be entitled to two aldermen: *And provided further*, That every legal voter of the Territory, who shall have been a resident of the city thirty days next preceding a city election, is declared a citizen of said city, and is entitled to vote at all the elections thereof. And no person shall be eligible to any elective office mentioned in this act, unless he be a legal voter of the city, and has been a resident thereof one year next preceding his election; *And provided further*, That every person shall vote in the ward where he resides, and not elsewhere.

Election district constituted, who may vote.

Provided

Proviso.

Proviso

SEC. 12. All ordinances of the city of Yankton, as incorporated in 1868-9, now in force, and not repugnant to the provisions of this act, shall remain and continue in force until altered or repealed by the mayor and council.

Certain ordinances to remain in force

ARTICLE II—POWERS OF THE MAYOR AND COUNCIL.

SEC. 13. The mayor and council of the city of Yankton shall have the care, management and control of the city and its property and finances, and shall have power to enact and ordain any and all ordinances not repugnant to the organic act, and the laws of this Territory, and such ordinances to alter, modify or repeal; and shall have power

Duties of mayor and council.

Powers relative to taxes, how to proceed.

1st. To levy and collect taxes for general purposes, not exceeding 2 mills on the dollar in any one year, on all the property within the limits of the city, taxable according to the laws of the Territory, the valuation of such property to be taken from the assessment roll of Yankton county; and it shall be the duty of the county clerk of said Yankton county, to permit the city clerk to make out, from the assessment rolls of the county, an assessment roll for the city, of all the property liable to taxation as above specified; *Provided*, That the authorities of said city of Yankton, shall not, in any year, issue warrants or orders to an amount greater than ninety per cent. of the amount of taxes levied for such year, and the amount actually received from other sources; and said city authorities shall not contract or incur any indebtedness in addition to the amount for which they are authorized to issue warrants, or orders, or bonds.

Relative to sale of real estate.

2nd. To provide for the sale of real estate for the non-payment of taxes due thereon, and for the time and manner of redemption of the same, and conveyance thereof; *Provided*, That the owner may redeem the same within two years after the day of sale, or at any time thereafter, until the tax deed is issued, by the payment of the full amount of tax, and all taxes subsequently paid thereon by the purchaser, and all costs, penalties and charges thereon, together with interest at the rate of forty per cent. per annum.

Personal property.

3rd. To provide for the sale of personal property for any taxes due from the owner thereof, or assessed upon the property to be sold.

To levy taxes on saloons, &c.

4th. To levy and collect a license tax on runners, hawkers, peddlers, liquor sellers, pawn-brokers, taverns, dram shops, saloon keepers of any kind, brokers, shows and exhibitions for pay, billiard tables, ball and ten pin alleys, without regard to the number of pins used; hacks, drays, wagons, or other vehicles used for pay, within the city; theaters and theatrical exhibitions for pay, and to adopt all such measures as they may deem necessary for the accommodation and protection of strangers and the traveling public in person or property.

To restrain certain things.

5th. To restrain, prohibit and suppress tipping shops, billiard tables, ten-pin alleys, ball alleys, houses of prostitution and other disorderly houses and practices, games and gamb-

ling houses, desecration of the Sabbath, commonly called Sunday, and all kinds of indecencies.

6th. To make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws for that purpose, and to enforce the same within the limits of the city. Relative to diseases.

7th. To erect, establish and regulate hospitals, work houses, houses of correction and jails, and provide for the government and support of the same. Relating hospitals, &c.

8th. To make regulations to secure the general health of the city, and to prevent and remove nuisances, and to make and prescribe regulations for the cleaning and keeping in order all slaughter houses, stock yards, warehouses, stables or other places where offensive matter is kept or liable to accumulate. Relative to general health

9th. To establish, regulate and support night watch and police, and to define the duties thereof. Night watch.

10th. To provide for the lighting of streets, laying down of gas pipes, and erection of lamp posts, and to regulate the sale of gas and the rent of gas metres within the city. Lighting streets.

11th. To erect and establish market houses and make market places, and to regulate and govern the same, and to provide for the erection of all other useful and necessary buildings for the use of the city, and for the protection and safety of all property owned by the city, and to provide for the safety and protection of private property when damages are likely to accrue by the action of the elements, or through the carelessness or negligence of any servant or officer of the city; and to establish, alter and change the channels of streams and water courses, and bridge the same; *Provided*, That any such improvement mentioned in this sub-division, costing in the aggregate a sum greater than ten thousand dollars, shall not be authorized until the ordinance providing therefor shall be first submitted to and ratified by a majority of the legal voters of said city, voting at said election. Market places

12th. To provide for and cause to be taken, an enumeration of the inhabitants of the city. Census.

13th. To provide by ordinance for the election of city officers, and prescribe the manner of conducting the same, and the returns thereof, and for deciding contested elections. Elections.

- Removals** 14th. To provide for removing officers of the city for misconduct, and to create any office or employ any agent they may deem necessary for the good government and interests of the city.
- Imposing, and collecting fines.** 15th. To regulate the police of the city, and impose fines, forfeitures and penalties for the breach of any ordinance, and provide for the recovery and collection thereof, and in default of payment to provide for confinement in the city prison, or for hard labor in the city.
- Pay of officers** 16th. To regulate and prescribe the duties and powers and compensation of all officers and servants of the city not herein provided for.
- Bonds of officers.** 17th. To require of all officers and servants elected or appointed in pursuance of this act, bond and security for the faithful performance of their duties; and no officer shall become security upon the official bond of another.
- City bonds, amount to be issued.** 18th. To issue bonds of the city in such amounts and for such length of time, not to exceed twenty years, and at such rate of interest as they may deem proper, not to exceed ten per cent. per annum; said bonds to express upon their face the purpose for which they were issued, and under what ordinance, and may have interest coupons attached; *Provided*, No such bonds shall be issued for any purpose, unless at a regular or special election, after twenty days public notice, stating distinctly the purpose and object for which said bonds are to be issued, and the amount thereof, the electors of said city, by two-thirds of the legal votes at said election shall determine in favor of issuing said bonds, which said bonds shall in no case be diverted from the object for which they are issued, and shall not be disposed of by the city at less than ninety per cent. of their face.
- Proviso**
- Cruelty to animals.** 19th. To provide for the prevention of cruelty to animals.
- Appropriations.** 20th. To appropriate money, and provide for the payment of the debts and expenses of the city.
- Regulate internal commerce.** 21st. To regulate, license or prohibit the sale of domestic animals, or of goods, wares or merchandise, at public auction on the streets, alleys, highways, or any public grounds within the city.
- Auctioneering** 22nd. To regulate, license or prohibit the auctioneering of

goods, wares and merchandise, brought into the city for the purpose of being sold at auction.

23rd. To name and to re-name streets, avenues, parks and squares within the city. Naming streets.

24th. To prohibit, on the petition therefor of the owners of not less than two-thirds of the ground included in any square or block, the erection of any building; or addition to any building, more than ten feet high, unless the outer walls thereof be made of brick and mortar, or of iron, or stone and mortar; and to provide for the removal of any buildings or additions erected contrary to such prohibition. Prohibit the erection of buildings.

25th. To lay out the city into districts for the purpose of establishing a system of sewerage and drainage, and to levy and collect a special tax upon real estate in any such district for the purpose of constructing sewers and drains therein. Sewerage.

26th. To erect and construct water works either within or without the corporate limits of the city, and to make all needful rules and regulations concerning the use of water supplied by such water works, and to do all acts necessary for the construction, completion, management and control of the same. Water works.

27th. To provide for the organization and support of fire companies, and to establish regulations for the prevention and extinguishment of fires. Fires.

28th. To act as a board of equalization for the city, to equalize assessments, and to correct any error in the listing or valuation of property, and to supply any omissions in the same; and to make a general increase in the valuation of real estate, as in their judgment they may deem proper; such increase not to exceed twenty per cent. of the valuation for county purposes. To equalize taxes.

29th. To require from any city officer of the city at any time, a report in detail of the transactions in his office, or of any matter connected therewith. Reports.

30th. To prevent horse racing and immoderate riding or driving in the streets, and to compel persons to fasten their horses or other animals attached to vehicles, while standing in the streets. Fast driving.

31st. To regulate the transportation and keeping of gun powder and other combustibles and-explosive articles. Magazines.

Public
grounds

32nd. To purchase, hold and improve public grounds and parks, and to provide for the protection and preservation of the same.

Private prop-
erty.

33rd. To appropriate private property for the use of the city

Disorderly
person.

34th. To provide for the punishment of persons disturbing the good order and quiet of the city by clamor and noise, by intoxication, drunkenness, fighting, using obscene or profane language in the streets or other public places, to the annoyance of citizens, or otherwise violating the public peace by indecent and disorderly conduct, or by lewd or lascivious behavior; and to provide for the punishment of vagrants, common street beggars, common prostitutes, habitual disturbers of the peace, known and notorious pickpockets, gamblers, burglars, thieves, watch-stuffers, ball game players, persons who practice any trick, game or devise with intent to swindle, persons who abuse their families, and suspicious persons who can give no reasonable account of themselves, and such punishment may be either by imposing and collecting fines, or by imprisonment at hard labor, or both, at the discretion of the court: *Provided*, That no such person shall be fined for a single offense to exceed fifty dollars, and that such imprisonment at hard labor, shall for the first offense not exceed thirty days, for the second offense sixty days, for the third offense ninety days, and they shall have power to provide that all persons who shall refuse or neglect to pay the fine imposed, on conviction of any offense, together with the costs of prosecution, shall be imprisoned and kept at hard labor until, at the rate of seventy-five cents per each days' labor, exclusive of Sundays, they shall have earned an amount equal to such fine and costs. They shall also have power to make suitable regulations to conduct such labor to the best advantage, and in a manner consistent with the age, sex and health of the prisoners, and such labor may be done at the city prison, or elsewhere, under the charge of such officers or other persons, as the mayor and council may select; *Provided, however*, That no person shall for the first offense be sentenced to work outside an enclosure. And they shall have power also to provide suitable hospitals for the reception and care of such prisoners as may be diseased or disabled, the same to be under such

Penalties.

proviso

Shall provide
hospitals.

regulations and under the charge of such persons as the mayor and council may by ordinance direct.

35th. To provide for filling such vacancies as may occur in the office of alderman, or other elective officer of the city, by calling special elections for that purpose. To provide for filling vacancies.

Sec. 14. All ordinances of the city shall be passed pursuant to such rules and regulations as the mayor and council may prescribe; *Provided*, That upon the passage of all ordinances the yeas and nays shall be entered upon the record of the city council, and a majority of the votes of all the members of said council present shall be necessary to their passage; *Provided*, A majority of all the members elected shall constitute a quorum. Manner of passing ordinances

Sec. 15. All ordinances of the city may be proven by the ordinance book or the certificate of the clerk under the seal of the city: and when printed or published in a book or pamphlet form, and purporting to be published or printed by authority of the city, shall be read and received in all courts, and places without further proof. How ordinances may be proven.

Sec. 16. The mayor and council shall cause to be published semi-annually, a statement of the receipts and expenditures, and the financial condition of the city. Publication of ordinances.

Sec. 17. The mayor and council shall have power to establish by ordinance the grade of any street, alley, avenue or lane within the city; and when the grade of such street, alley, avenue or lane shall have been established, such grade shall not be changed except by a vote of two-thirds of the council, and not then until the damages to property owners which may be caused by such change of grade, shall have been assessed and determined by three disinterested appraisers, who shall be appointed by the mayor with the consent of the council, for that purpose, who shall make such appraisement, taking into consideration the benefits, if any, to such property, and file their report with the city clerk within ten days after receiving notice of their appointment; and the amount of damages so assessed shall be tendered to such property owners, or their agents, before any such change of grade shall be made. Grading streets Damages.

Sec. 18. The mayor and council shall have power to extend, open, widen, grade, pave, macadamize, or otherwise improve Improvement and extension of streets.

and keep in repair in any manner they may deem proper any street, sidewalk, alley, avenue or lane within the limits of the city; and to defray the cost and expense of such improvements, or any of them; the mayor and council shall have power to levy and collect special taxes upon the lots and pieces of ground adjacent to and abutting upon the streets, sidewalks, alleys, avenues or lanes thus opened, widened, extended or improved, or to be improved as aforesaid.

Certain taxes
how levied.

SEC. 19. Such taxes shall be levied on all the lots and lands bounding or abutting on such improvement, said tax to be either in proportion to the feet front so abounding or abutting, or according to the value of such lots or lands (exclusive of improvements thereon) as shown by the last assessment for general city purposes, as the mayor and council may determine. And the mayor and council is hereby required to provide for ascertaining the value of the improvements, in order that the same may be deducted from the valuation of such real estate for general city purposes, in case such special tax is to be levied upon the basis of valuation; *And provided*, That when such improvement shall extend into or through any unsubdivided tract or parcel of land, said taxes shall be so levied, if upon the basis of valuation, as not to be charged against the real estate adjoining such improvement, for a greater depth than the average distance through the subdivided real estate to be taxed for said purpose.

Provided.

To keep side-
walks in repair

SEC. 20. The mayor and council shall have the power to provide for keeping sidewalks clean and free from all obstructions and accumulations, and may provide for the assessment and collection of taxes on unoccupied real estate, and for the sale and conveyance thereof to pay the expenses of keeping the sidewalks adjacent to such real estate clean and free from obstructions and accumulations as herein provided.

Draining off
stagnant water.

SEC. 21. The mayor and council shall have power to require all lots or pieces of ground within the city to be drained or filled, when necessary, to prevent stagnant water or any other nuisance accumulating therein; and upon the failure of the owners of such lots or pieces of ground to fill or drain the same when so required, to cause such lots or pieces of ground to be drained or filled; and the cost and expense thereof shall be levied upon the property so filled or drained, and collected as other special taxes.

Sec. 22. When the mayor and council shall deem it necessary to open, widen, extend, grade, pave, macadamize, bridge, curb, gutter, drain, or otherwise improve any street, sidewalk, alley, avenue or lane within the limits of the city, for which a special tax is to be levied as herein provided, the mayor and council shall, by resolution, declare such work or improvement necessary to be done; and such resolution shall be published for four consecutive weeks in the official newspaper of the city; and if a majority of the resident owners of the property liable to taxation therefor, shall not within twenty days thereafter file with the city clerk of said city, their protest against such improvement, then the mayor and council shall have power to cause such improvement to be made and to contract therefor, and to levy and collect the taxes as herein provided.

Improvement
of streets, &c

Sec. 23. Such special taxes shall be due and may be collected as the improvements are completed in front of, or along or upon any block or piece of ground, or at the time the improvement is completed according as shall be provided in the ordinance levying the tax. Such tax, if not paid within thirty days after becoming due, shall have added thereto a penalty of ten per cent., and shall bear interest from the day of sale, at the rate of twenty-five per cent. per annum, to be computed on the tax, penalty and costs of sale.

Special taxes
how collected.

Sec. 24. The cost and expenses of grading, filling, paving, macadamizing, culverting, curbing and guttering, or otherwise improving streets, sidewalks, alleys, avenues or lanes at their intersections, may be included in the special tax levied for the improvement of any street, sidewalk, alley, avenue or lane, as may be deemed best by the mayor and council.

Certain ex-
penses to be in-
cluded in spe-
cial tax.

Sec. 25. When the special tax is levied, it shall be the duty of the engineer of the city to calculate the amount of the tax on any block, or piece of ground, and file a statement thereof with the city clerk, who shall, as soon as the tax is due on any block or piece of ground, issue a certificate describing it by its number and block, and stating the amount of tax due thereon, and the name of the person entitled to the same, and the purpose for which said tax was levied; and such certificate so given shall be the tax warrant of the contractor, and shall be by the clerk placed in the hands of the treasurer, who shall give notice through the official

Duties of
street commis-
sioner when
special tax is
levied

paper of the city when the penalty will accrue; and he shall keep a record of all such warrants, and enter in the margin of such records all amounts paid and by whom paid.

Sufficient description of realty.

SEC. 26. It shall be sufficient in any case to describe the lot or piece of ground as the same is platted or recorded, although the same may belong to several persons; but in case any lot or piece of ground belongs to different persons, the owner of any part thereof may pay his proportion of the tax on such lot or piece of ground, and his proper share may be determined by the city treasurer.

Mayor and council may provide for sale of ground.

SEC. 27. The mayor and council shall have power to provide for the sale and conveyance of any lot or piece of ground for non-payment of such taxes, and the deed given to convey the same may be recorded in the office of register of deeds of the county, as other conveyances. The conveyance shall be to the person owning the certificate of sale at the time such conveyance is given; *Provided*, That any lot or piece of ground may be redeemed within two years after the day of sale, or at any time thereafter until the tax deed is issued, by paying to the treasurer the tax, penalty, costs, and interest at the rate of forty per cent per annum. Lots or lands belonging to minors, or any interest they may have in any lands sold for special taxes, may be redeemed in the same manner at any time before such minor becomes of age and during one year thereafter.

Proviso.

Duty of street commissioner when improvement is completed

SEC. 28. When any improvement mentioned in this act is completed according to contract, it shall be the duty of the engineer of the city to carefully inspect the same, and if the improvement is found to be properly done, such engineer shall accept the same and forthwith report his acceptance thereof to the city council, who may confirm or reject such acceptance. When the ordinance levying the tax makes the same due as the improvement is completed in front of, or along any block or piece of ground, then the engineer may accept the same in sections, from time to time, if found to be done according to contract, always reporting his acceptance to the city council for confirmation or rejection.

Special taxes a lien on real property

SEC. 29. Special taxes shall be a lien on the lots or pieces of ground subject to the same, from the time the amount thereof shall have been ascertained, and in case any error or irreg-

ularity should occur in levying or collecting any such special tax, proceedings may be taken anew, so as to obviate any such error or irregularity.

SEC. 30. Whenever it shall become necessary to appropriate private property for the use of the city, and such appropriation shall be declared necessary by resolution, the mayor, with the approval of the council, shall appoint three disinterested freeholders of the city, who, after being first duly sworn to perform the duties of their appointment with fidelity and impartiality, shall assess the damage to the owners of the property, respectively, by such appropriation. Such assessment shall be reported to the council, and when confirmed by them the damages shall be payable as provided in the next section.

Manner of appropriating private property to use of city

SEC. 31. Such damages shall be paid to the owners of such property, and be deposited with the city treasurer, subject to the order of such owners, respectively, before such property shall be taken for the use of the city.

To whom damages shall be paid

SEC. 32. If the assessment of the freeholders be not confirmed by the council, proceedings may be taken anew to assess the damages.

When assessment not confirmed by council

SEC. 33. The mayor and council are hereby required to make provisions for a sinking fund, to redeem at maturity the bonded indebtedness of the city, and the tax levied for the sinking fund shall be paid in cash.

Sinking fund to be provided for

SEC. 34. The mayor and council shall make provisions for the payment of interest on the bonds of the city; and taxes levied for the payment of such interest shall be payable in cash.

Provision for interest on bonds

SEC. 35. The sinking fund to redeem at maturity the bonded indebtedness of the city, may be used to purchase such bonds before maturity, on such terms and in such manner as may be prescribed by an ordinance to be enacted for that purpose; *Provided*, That bond holders shall be given an opportunity to compete for the sale of bonds held by them; and the bonds that can be purchased upon the most favorable terms shall be preferred.

Sinking fund may be used for purchase bonds before maturity

SEC. 36. No money shall be expended or payment made by the city, except in pursuance of a specific appropriation made for that purpose by ordinance or resolution. And the resi-

How money shall be expended

Who shall
work upon
streets

Proviso

dents of said city shall be exempt from the payment of a poll tax for the benefit of roads as required under the present laws relating to roads; but in lieu thereof the mayor and council of said city shall have power to require each able-bodied male person between the ages of 21 and 55 years, resident within the city, to perform by himself or substitute, in each and every year, one day's labor upon the streets and highways of said city; *Provided*. That acting volunteer firemen shall be exempt from performing said one day's labor; and *Provided further*, That such labor, when so required, may be commuted by the payment of the sum of two dollars in each year, to be expended upon the streets and highways where such labor would have been applied.

Provision for
payment of in-
debtedness

SEC. 37. At the first meeting in each month the mayor and council shall provide, by ordinance or resolution for the payment of all liabilities of the city incurred during the preceding month, or at any time previous thereto.

Mayor may
veto ordinances
appropriating
money

SEC. 38. Any ordinance or resolution appropriating money shall be subject to the veto of the mayor as any other ordinance, and the mayor may veto any single item in any such ordinance over fifty dollars, and if such item be not passed on a reconsideration thereof, the veto of the mayor to the contrary notwithstanding, in the same manner as in other ordinances, such items shall be stricken out and shall not be allowed or paid by the city.

ARTICLE III.—MAYOR.

Veto power of
the mayor

SEC. 39. The mayor shall have power to sign or veto any ordinance or resolution passed by the city council. Any ordinance or resolution vetoed by the mayor may be passed over the veto by a vote of two-thirds of the whole number of aldermen elected, notwithstanding the veto; and should the mayor neglect or refuse to sign any ordinance, or return the same with his objections, in writing, within ten days, the same shall take effect without his signature.

Mayor shall
sign orders

SEC. 40. All orders and drafts upon the treasury for money shall be signed by the mayor, and shall be attested by the city clerk, who shall also affix the seal of the city, and keep an accurate record thereof in a book to be provided for that purpose.

SEC. 41. The mayor shall have the superintending control of all the offices and affairs of the city, and shall take care that the ordinances of the city and this act are complied with.

Mayor has control of offices

SEC. 42. He shall sign the commissions or appointments of all the officers appointed in the city government.

Shall sign commissions

SEC. 43. He shall be a conservator of the peace throughout the city, and shall at all times have power by and with the consent of the city council, to appoint any number of special policemen which he may deem necessary to preserve the peace of the city, and to dismiss the same at pleasure.

Mayor shall be conservator of peace

SEC. 44. He shall from time to time communicate to the city council such information, and recommend such measures as in his opinion may tend to the improvement of the finances of the city, the police, health, security, ornament, comfort and general prosperity of the city.

Duty of the mayor

SEC. 45. The mayor or any five aldermen, shall have power to call special meetings of the council, the object of which shall be submitted to the council in writing, and the call and object as well as the disposition thereof, shall be entered upon the journal of the council.

Duty of mayor and aldermen

SEC. 46. The mayor shall have power, when he deems it necessary to require any officer of the city to exhibit his accounts or other papers, and to make report to the council in writing, touching any subject or matter he may require, pertaining to his office.

City officers shall make exhibits

SEC. 47. The mayor shall be active and vigilant in enforcing all laws and ordinances for the government of the city, and he shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty; he shall have jurisdiction as may be vested in him by ordinance, over all places within the corporate limits of the city, for the enforcement of any health or quarantine ordinance or regulation thereof.

Enforcement of laws and ordinances

SEC. 48. When any vacancy shall happen in the office of mayor by death, resignation, absence from the city, removal from office, refusal to qualify, or otherwise, the council shall, by vote of a majority of all the aldermen elected, elect from their number a mayor pro tem, who shall exercise the office of mayor, with all the rights, privileges and jurisdiction of the regular mayor, until such vacancy is filled, or such disa-

Vacancy in office of mayor how filled

bility be removed; or in case of temporary absence, until the mayor shall return; and during the time, he shall receive the same compensation that the mayor would be entitled to, the same to be deducted from the salary of the mayor; and in case of such vacancy other than temporary absence or disability, the person exercising the office of mayor shall forthwith cause a special election to be held, giving ten (10) day's notice thereof by proclamation.

When certificates of election shall be made out

SEC. 49. At the first meeting of the city council, after any general election for city officers, they shall cause to be made out and certified by their clerk, a certificate of the election of such officers as are required to be elected by this act; and a neglect of any such officer to qualify within ten days after the delivery of such certificate to him, shall be deemed a refusal to accept the office to which he shall have been elected.

When citizens shall aid in preserving peace

SEC. 50. The mayor is hereby authorized to call on every male inhabitant of the city, over eighteen years of age, and under the age of fifty years, to aid in enforcing the laws and ordinances of the city; and in case of necessity, to call out the militia within the city to aid in the suppression of any riot, or in the enforcement of any ordinance; and any person who shall not obey such call, shall forfeit to the city a fine not exceeding one hundred dollars.

Mayor may remit fines

SEC. 51. The mayor shall have power to remit fines and forfeitures, to grant reprieves and pardons for all offenses arising under the ordinances of the city, by and with the consent of the council.

What officers may be appointed by mayor

SEC. 52. The mayor shall have power, by and with the consent of the council, to appoint all officers other than those provided for in this act, that may be deemed by him necessary for the good government and efficient police of the city; and to remove from office, by and with the consent of the council, any person holding an office created by ordinance.

ARTICLE IV—CITY JUSTICE OF THE PEACE.

City justice of peace, his powers and duties.

SEC. 53. A city justice of the peace shall be appointed by the mayor and council. The city justice of the peace shall have exclusive jurisdiction, and it shall be his duty to hear and determine all offenses against the ordinances of the city, and concurrent jurisdiction with other justices, and of misde-

meanors under the laws of the Territory, arising within the limits of the city, when the fine which may be imposed does not exceed one hundred dollars, or the imprisonment, ninety days; and shall also have jurisdiction for the examination of offenders against the laws of the Territory, for offenses arising within the city limits, and shall have jurisdiction in civil cases as provided by law for justices of the peace elected for the county at large.

SEC. 54. Whenever complaint shall be made to the city justice of the peace, upon the oath or affirmation of any person competent to testify against the accused, that an offense has been committed, of which the city justice of the peace has jurisdiction, said justice shall forthwith issue a warrant for the arrest of the offender, which warrant shall be served by the city marshal, or the sheriff of the county, or some person specially appointed by said justice for that purpose.

Duty of city justice of peace when complaint is made.

SEC. 55. When any person shall be brought before the said justice, upon such warrant, it shall be his duty to hear and determine the complaint alleged against the defendant.

Proceedings when prisoner is arraigned.

SEC. 56. Upon good cause shown, said justice may postpone the trial of the case to a day certain, in which case he shall require the defendant to enter into recognizance with sufficient security, conditioned that he will appear before such justice at the time and place appointed, then and there to answer the complaint alleged against him.

Justice may postpone trial in certain cases.

SEC. 57. It shall be the duty of the said justice to summon all persons whose testimony may be deemed material as witnesses at the trial, and to enforce their attendance by attachment if necessary; and when a trial shall be continued by said justice, he may verbally notify such witnesses as may be present at the continuance, to attend before him, to testify in the cause set for trial; and such verbal notice shall be as valid as a summons.

Justice compel attendance of witnesses.

SEC. 58. All trials before the said justice for misdemeanors, arising under the laws of the Territory, shall be governed by the criminal procedure, applicable to justices' courts in like cases.

How trials shall be governed.

SEC. 59. In all trials for offenses under the ordinances of said city, if the defendant is found guilty, said justice shall render judgment accordingly. It shall be part of the judgment, and how enforced.

Judgment, and how enforced.

ment that the defendant stand committed until the judgment be complied with; in no case to exceed one day, for every seventy-five cents of the fine and costs assessed against said defendant.

When justice's court shall be open.

SEC. 60. Said justice shall be a conservator of the peace, and his court shall be open every day except Sunday, to hear and determine any and all cases cognizable before him; and he shall have power to bring parties forthwith before him for trial; and no act shall be performed by him on Sunday, except to receive complaints, issue process and take bail.

Appeals allowed in certain cases.

SEC. 61. In all cases before the said justice, arising under the ordinances of the city, wherein the fine assessed exceeds ten dollars, or the imprisonment two days, an appeal may be taken by the defendant to the district court of Yankton county; but no appeal shall be allowed unless such defendant shall, (in case of fine) within ten days, (and in case of imprisonment) within twenty-four hours, enter into recognizance, with sufficient securities, to be approved by said justice, conditioned in case of fine, for the payment of said fine and costs and costs of appeal, and in case of judgment of imprisonment, that he will render himself in execution thereof, if it should be determined against the appellant.

Justice shall not remit fines.

SEC. 62. Any person convicted before the said justice of an offense under the ordinances of the city, shall be punished by fine and imprisonment, as may be regulated by ordinance, and under no circumstances shall such justice remit fines or penalties, on payment of costs or otherwise.

Vacancy in office of city justice, how filled.

SEC. 63. In case of a vacancy in the office of city justice of the peace, by death, resignation or otherwise, or in case of his absence, interest or disability to perform his duty, it shall be the duty of any acting justice of the peace within the city, who shall be designated by the mayor, to act as city justice of the peace during such vacancy, absence or disability, in the trial of causes cognizable before the said justice.

Proceedings in case of malicious prosecution.

SEC. 64. If upon any trial under the provisions of this act, it shall appear to the satisfaction of the city justice of the peace, or the jury, (in cases arising under the laws of the Territory,) that the prosecution was commenced without probable cause, or from malicious motives, the jury or justice trying the case shall state the name of the prosecutor or prosecutors

in the finding, and shall impose the costs of the prosecution upon him or them, and judgment shall be rendered against such prosecutor or prosecutors, that he or they pay such costs, and stand committed until the same are paid.

SEC. 65. The city justice of the peace shall have power to enforce due obedience to all orders, rules, judgments and decrees made by him; and he may fine or imprison for contempt offered to him while holding his court, or to process issued, or orders made by him in the same manner and to the same extent as provided for justice courts. On the trial of any case in said court, it shall be the duty of the city justice of the peace to sign any bill of exceptions rendered to the court during the progress of such trial; *Provided*, The truth of the matter be fairly stated, and thereupon said exceptions shall be entered in the record of such trial and become a part thereof; and any final conviction, sentence or judgment of said court may be examined by the district court on writ of error, except in cases mentioned in section sixty-one, which may be allowed by the said district court or the judge thereof, for sufficient cause, and proceedings may be stayed as may be deemed reasonable, and the revising court shall, in such proceedings take judicial notice of all the ordinances of said city. Cases before the city justice of the peace, arising under the city ordinances, shall be tried and determined by the justice without the intervention of a jury, unless the defendant demand a trial by jury: and when a demand shall be so made, the trial shall be by a jury as in other cases in said court for misdemeanors, arising under the laws of the Territory. And in all trials by a jury in said court, challenges shall be allowed in the same manner and for the same causes as in the district court, in cases of misdemeanors; except that, if either party object to the competency of a juror, the question thereon must be tried in a summary manner by the justice, who may examine the juror or other witness under oath.

How trials shall be conducted in justice's court.

Proceedings in case of exceptions

SEC. 66. In all cases not herein specially provided for, the process and proceedings of said court shall be governed by the laws regulating proceedings in justices courts in criminal cases.

Government of cases not specifically provided for

ARTICLE V.—TREASURER.

SEC. 67. The city treasurer shall receive all moneys belonging to the city, and shall keep his books and accounts in such

Duties of city treasurer

manner as the mayor and council may prescribe: and such books and accounts shall be always subject to the inspection of the mayor or any member of the city council.

Warrants, by whom signed

SEC. 68. All warrants drawn upon the treasury must be signed by the mayor, and countersigned by the clerk, stating the particular fund or appropriation to which the same is chargeable, and the person to whom chargeable; and no money shall be otherwise paid than upon such warrants so drawn, except as hereinafter provided.

Treasurers shall keep separate accounts

SEC. 69. The city treasurer shall keep a separate account of such fund or appropriation, and the debts and credits belonging thereto.

Shall give duplicate receipts

SEC. 70. The city treasurer shall give every person paying money into the city treasury, a duplicate receipt therefor, specifying the date of payment, and upon what account paid: and he shall also file copies of such receipts with the clerk at the date of his monthly report.

When and to whom reports shall be made

SEC. 71. The city treasurer shall, at the end of each and every month, and oftener if required, render an account to the mayor and city council, or such officer as the mayor and city council may designate, showing the state of the treasury at the date of such account, and the balance of money in the treasury. He shall also accompany such accounts with a statement of all moneys received into the treasury, and on what account, together with all warrants redeemed and paid by him, which said warrants, with any and all vouchers held by him, shall be delivered by the clerk, and filed with his said account in the clerk's office upon every day of such settlement, taking their receipt for the same. He shall return all warrants paid by him stamped or marked "paid," and shall give a list of said warrants, stating the number and amount of each.

Manner of keeping city moneys, &c

SEC. 72. The city treasurer shall keep all moneys in his hands belonging to the city, separate and distinct from his own moneys; and he is hereby expressly prohibited from using, either directly or indirectly, the corporation money or warrants in his custody and keeping, for his own use and benefit, or that of any other person or persons whomsoever; any violation of this provision shall subject him to immediate removal from office by the city council, and upon conviction

thereof they are hereby authorized to declare such office vacant; and the city council shall appoint a successor of the term unexpired of such officer so removed.

SEC. 73. The city treasurer shall report to the mayor and council at such time as may be prescribed by ordinance, giving a full and detailed account of all receipts and expenditures during and since his last report, and the state of the treasury. He shall also keep a register of all warrants, redeemed and paid during the year, describing such warrants, their date, amount, number, the fund from which paid, and person to whom paid, specifying also, the time of payment; and all such warrants shall be examined by the finance committee at the time of making such report.

Treasurer shall make report

SEC. 74. All moneys received on any special assessment shall be held by the treasurer as a special fund, to be applied to the payment of the improvement for which the assessment was made; and said money shall be used for no other purpose whatsoever.

Special assessments, how applied

SEC. 75. The treasurer shall be collector of taxes for the city, and shall give bonds in a sum not less than five thousand dollars, and in such further sum as may be provided by ordinance, said bond to be approved by the mayor and council, for the honest and faithful performance of the duties of his office; said bond to be filed in the office of the clerk of the city.

Treasurer shall be collector of taxes

ARTICLE VI.—MISCELLANEOUS.

SEC. 76. The marshal shall possess the powers of constable in the service of a process, and may arrest offenders within or without the city limits, for offenses committed within the same; and shall at all times have power to make or order an arrest upon view of an offense being committed, with or without process, for an offense against the laws of the Territory, or the ordinances of the city, and bring the offender to trial or examination before the proper officers of the city; *Provided*, That any person arrested for an offense without process, shall be entitled, on demand before trial, to have filed a complaint on oath, in writing.

Powers and duties of city marshal

SEC. 77. The policemen of the city shall have power to arrest all offenders against the laws of the Territory or ordi-

Policemen, their powers

nauces of the city by day or by night, and keep them in the city prison to prevent their escape until they can be brought before the proper officer.

To whom
marshal sub-
ject

SEC. 78. The marshal, in the discharge of his duties, shall be subject to the order of the mayor and city justice of the peace only, and shall be ex-officio chief-of-police.

To whom po-
licemen subject

SEC. 79. The policemen of the city, in the discharge of their duties, shall be subject to the orders of the mayor and marshal only.

Duty of may-
or and council

SEC. 80. When, by this act, the power is conferred upon the mayor and council to do and perform any act or thing, and the manner of exercising the same is not specifically pointed out, the mayor and council may provide by ordinance the details necessary for the full exercise of such power.

Powers and
duties of offi-
cers to be de-
fined by ordi-
nance

SEC. 81. The duties, powers and privileges of all officers of every character, in any way connected with the city government, not herein defined, shall be defined by ordinance, and the defining by this act of the duties of the city officers, shall not preclude the mayor and council from defining by ordinance further and additional duties to be performed by any such officer.

City property
exempt from
taxation

SEC. 82. Lands, houses, moneys, debts due the city, and property and assets of every description, belonging to said city, shall be exempt from taxation, and sale on execution: judgments against the city shall be paid out of the general fund, or by a tax to be assessed upon the taxable property of the city.

Fines to be
paid into city
treasury

SEC. 83. All fines, penalties and forfeitures collected for offenses against the ordinances of the city, and all fines, penalties and forfeitures collected within the city for misdemeanors against the laws of the Territory, shall be paid to the officer or officers entitled by law to receive the same.

Offenses com-
mitted by city
officers, and how
punished

SEC. 84. Any officer of the city, or member of the council, who shall by himself or agent become a party to, or in any way interested in any contract, work or letting under the authority of the city, or who shall, either directly or indirectly, by himself or other party, accept or receive any valuable consideration or promise, for his influence or vote, shall be fined in any sum not less than one hundred dollars, nor more than

one thousand dollars, one-half of which shall go to the informer, and the balance to be paid into the city treasury, by the officer collecting or receiving the same.

SEC. 85. The several officers of said city hereinafter named, shall for the year 1873, receive the compensation fixed by this act, and no more; and it is hereby made the duty of the mayor and council to fix by ordinance the compensation to be paid the several officers provided for in this act, and such other officers as may be appointed by the mayor and council for said city; *Provided*, That in no case shall the compensation of the mayor and council be increased during their term of office;

Compensation of city officers

Provided

1st. The mayor shall receive for the year 1873, the sum of five dollars.

Salary of mayor

2nd. The members of the council shall each receive for the year 1873, the sum of three dollars.

Salary of councilmen

SEC. 86. The several officers of the city of Yankton, holding office under the charter, repealed by this act, are hereby continued in office until the second Monday in April, A. D., 1873, and until their successors are duly elected or appointed and qualified.

Officers continued in office

SEC. 87. Any member of the city council may be expelled or removed from office by a vote of two-thirds of all the members of the city council; and any officer elected by the votes of the city, or of any ward, or district, may be removed from office by a vote of two-thirds of all the members of the city council; and the mayor and council shall make provisions by ordinance for preferring charges, and trying the same, and to enable the mayor and council to fully investigate charges made against such officers, or such other matters as they may deem proper, the mayor or the city justice of the peace at the request of the council, are hereby required to issue subpoenas and compulsory process to compel the attendance of persons, and the production of books and papers, before the council or any committee of the same.

Mode of expelling and removing councilmen and city officers

SEC. 88. That all east of Walnut street and south of 3rd street, shall constitute the 1st ward. All west of Walnut street and south of 3rd street, shall constitute the 2nd ward.

Wards of the city defined.

All north of 3rd street and west of Walnut, shall constitute the 3rd ward. All north of 3rd street and east of Walnut street, shall constitute the 4th ward.

Certain act
repealed

Sec. 89. That chapter 44, entitled an act to incorporate the city of Yankton, Dakota Territory, session laws of 1868-9, approved January 8, 1869, be, and the same is hereby repealed.

When to take
effect.

Sec. 90. That this act shall take effect and be in force from and after its passage.

Approved, January 8th, 1873.

LEVEE.

VERMILLION.

CHAPTER 14.

AN ACT VACATING A PORTION OF THE LEVEE OF THE TOWN OF VERMILLION, D. T.

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

Part of levee
vacated

SECTION 1. All that portion of the levee of the town of Vermillion, Dakota Territory, laying north of the railroad already constructed through said town, is hereby vacated and discontinued as such levee.

When to take
effect.

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

Approved, January 8th, 1873.

ROAD DISTRICTS.

UNION COUNTY.

CHAPTER 15.

AN ACT RELATING TO THE ESTABLISHMENT OF ROAD DISTRICTS IN UNION COUNTY, AND FOR OTHER PURPOSES.

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

SECTION 1. That hereafter each school district in Union county, shall be a road district. Road districts established

SEC. 2. At the annual school meeting for each district, there shall be elected a road supervisor for such district, who shall hold his office for the term of one year from and after the first of January succeeding his election, who shall be a resident of such district, and shall take an oath to faithfully discharge the duties of such office. When road supervisors shall be elected

SEC. 3. The persons already elected and qualified as road supervisors in said county, shall continue to act as such for the district in which they may reside respectively; and the board of county commissioners of said county shall, until the next annual school meeting, appoint supervisors for the other districts, and shall have the authority to appoint suitable persons, residents of the district for which they may be appointed to fill all vacancies that may for any reason occur. When county commissioner shall appoint supervisors

Duty of supervisor

SEC. 4. The person so elected or appointed shall perform all the duties that are or may be required by law of road supervisors; *Provided, however,* That he shall receive no compensation for his services as such supervisor, except such as other parties may by law be entitled to receive for labor upon the public roads, and then only to the extent of the road and poll tax that may be due from him.

Proviso

Supervisor to be notified of his election

SEC. 5. When the person shall be elected at the annual school meeting as hereinbefore provided, it shall be the duty of the clerk of the school meeting to notify such person of his election, within ten days from such election; and when the county commissioners shall appoint such supervisors, it shall be the duty of the register of deeds of said county to notify such person of his appointment within ten days thereafter; and if any such person shall fail to qualify within ten days from the time he shall be duly notified, he shall forfeit and pay to the said county the sum of ten dollars, to be recovered upon a complaint, in the name of such county, before any justice of the peace in said county; and shall pay all the costs of the prosecution, which fine shall go to the road fund of the district in which he resides.

Penalty for refusing to qualify

Conflicting acts repealed.

SEC. 6. All acts and parts of acts in conflict with this act, are hereby repealed, so far as they apply to the county of Union.

When to take effect.

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

Approved, January 6th. 1873.

JOINT RESOLUTIONS.

JOINT RESOLUTIONS.

APPOINTMENT OF CLERK.

NO. 1.

JOINT RESOLUTION FOR THE APPOINTMENT OF A CLERK FOR THE COMMITTEES OF THE HOUSE.

Authorizing
election of
clerk

Resolved, By the House, the Council concurring, that the House be authorized to elect a clerk for the committees of the House, to be elected the same as other officers of the House.

Approved, December 31st, 1872.

AUDITOR AND TREASURER'S SALARY.

NO. 2.

A JOINT RESOLUTION ASKING AN APPROPRIATION FOR THE AUDITOR AND TREASURER OF DAKOTA TERRITORY.

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

Extra com-
pensation to
territorial au-
ditor and treas-
urer

1st. That the Hon. Geo. W. Kellogg, ex-Territorial Auditor, and T. J. Sloan, ex-Territorial Treasurer, be each allowed the sum of one hundred dollars extra pay for their services for the

years 1871 and 1872, out of any moneys in the treasury, and that Territorial auditor is authorized to issue warrants for same.

2nd. That this resolution take effect and be in force from ^{When to take effect,} after its passage and approval.

Approved, January 10th, 1873.

PAY OF CLERKS.

NO. 3.

JOINT RESOLUTION PROVIDING FOR THE PAYMENT OF THE ENROLLING AND COMMITTEE CLERKS OF THE TENTH SESSION OF THE LEGISLATURE OF DAKOTA.

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

SECTION 1. That there be and is hereby allowed to Bucklin ^{Providing for pay of clerks of legislative assembly} Wood as compensation for extra services as enrolling clerk of the House, the sum of one hundred and twenty dollars; also to R. Mostow, as compensation for extra services as enrolling clerk of the Council, the sum of one hundred and twenty dollars; also to C. B. Valentine as compensation for his services as clerk of committees, the sum of one hundred and twenty dollars; also to Geo. I. Foster, in compensation for extra services as secretary of the Council, the sum of forty dollars, and also to J. P. Walters, as compensation for extra services as assistant secretary of the Council, the sum of forty dollars, and that the Territorial auditor is hereby authorized and required to issue warrants upon the treasurer of the Territory, in favor of the persons above named, agreeable to the provisions of this section.

SEC. 2. This joint resolution shall take effect and be in ^{When to take effect} force from and after its passage and approval.

Approved, January 10th, 1873.

PAY OF OFFICERS AND MEMBERS OF EXTRA SESSION.

NO. 4.

JOINT RESOLUTION PROVIDING FOR THE PAYMENT OF THE OFFICERS AND MEMBERS OF THE EXTRA SESSION OF THE LEGISLATIVE ASSEMBLY OF DAKOTA TERRITORY, CONVENEED APRIL 18TH, A. D., 1871.

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

Providing for
payment of
members and
officers of extra
session of legis-
lative assembly

SECTION 1. That the officers and members of the Legislative Assembly of Dakota Territory, convened in extra session by order of the acting governor, April 18th, A. D., 1871. be allowed the sums set opposite their respective names in the following schedule, as full pay for their services at said extra session:

MEMBERS OF COUNCIL.

Jacob Brauch,.....	\$15.00
Wm. M. Cuppett,.....	24.00
Hugh Fraley,.....	18.00
Wm. T. McKay,.....	24.00
J. M. Stone,.....	15.00
C. H. McIntyre,.....	15.00
S. W. Kidder,.....	18.00
Nelson Miner,.....	18.00
J. W. Turner,.....	18.00
J. C. Kennedy,.....	21.00
Emory Morris,.....	21.00
Geo. T. Rea, Enrolling Clerk,.....	12.00
A. W. Howard, Secretary,.....	21.00
Carrie Foster, Asst. Secretary,.....	12.00
M. Hoyt, Chaplain,.....	6.00

MEMBERS OF HOUSE.

Amount brought forward.....	\$258.00
Charles Allen,.....	\$24.00
F. J. Cross,.....	18.00
Geo. H. Hand,.....	15.00
A. P. Hammon,.....	15.00
John Hancock,.....	42.00
O. B. Iverson,.....	24.00
H. A. Jerauld,.....	24.00
N. Learned,....	15.00
A. J. Mills,.....	18.00
E. Miner,.....	15.00
R. Mostow,.....	18.00
S. L. Parker.....	21.00
Ole Sampson,.....	15.00
A. F. Shaw,.....	18.00
J. C. Sinclair.....	21.00
N. Wherry.....	18.00
Geo. I. Foster, Chief Clerk,.....	12.00
C. B. Valentine, Asst. Clerk.....	27.00
John McClellan, Sergeant-at-Arms,.....	12.00
--- Danielson, Fireman and Messenger,....	12.00
Joseph Ward, Chaplain,.....	6.00
E. T. White, Sergeant-at-Arms.....	12.00
James M. Stone, rent etc.,.....	75.00
	\$735.00

SEC. 2. There is hereby appropriated out of the money in Appropriation the Territorial treasury, not otherwise appropriated, the sum of seven hundred and thirty-five dollars, for the payment of the amounts specified in the foregoing schedule.

SEC. 3. The Territorial auditor is hereby authorized and in- Auditor in-structed to audit the several accounts as herein specified, and structed to au-to issue his warrants on the treasurer. dit and issue warrants

SEC. 4. This act shall take effect and be in force from and When to takeafter its approval by the Governor. effect.

Approved, January 9th, 1873.

MEMORIALS.

MEMORIALS.

NO. 1.

MEMORIAL TO CONGRESS, PRAYING THAT YANKTON BE MADE
A PORT OF ENTRY, AND A MARINE HOSPITAL BE LOCATED
AT SAID PLACE.

Your memorialists, the Legislative Assembly, would most respectfully represent, that by the completion of the Dakota Southern Railroad to the city of Yankton, D. T., it becomes the starting point for navigation on the Missouri river, and must, without the aid of land grants to railroads, remain for some time said starting point.

A memorial to congress, praying that Yankton be made a port of entry, and a marine hospital be located at said place.

We, your memorialists, would therefore respectfully urge upon your honorable bodies, that Yankton be made a port of entry, and that a sufficient appropriation be made to establish a marine hospital at said city of Yankton, the capital of Dakota Territory, and as in duty bound, your memorialists will ever pray.

Resolved, That a copy of this memorial be forwarded to the President of the Senate and Speaker of the House of Representatives in Congress, and one copy to the committee on appropriations of each house, and one to our Delegate in Congress.

Approved, January 10th, 1873.

NO. 2.

A MEMORIAL TO THE SECRETARY OF THE INTERIOR.

A memorial
to the secretary
of the interior.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would most respectfully represent, that the citizens of this Territory have ever desired to live on terms of peace with the Indian tribes within our Territory, and it should be the object of the Government to foster the feeling now existing here, which can be done by making it for the interest of the citizens, by the purchase of supplies from the people of the Territory, when it can be done upon as favorable terms as elsewhere.

We would further respectfully represent, that we have an ample supply of grain, and have direct railroad connections, without breakage of bulk, from Yankton, the capital of the Territory; and also plenty of warehouse room to accommodate the transfer business.

We would respectfully ask that Yankton be made a point of delivery in advertising for supplies for the year 1873, thereby saving 175 miles of dangerous river navigation on the Missouri river, and purchasing supplies at less prices than heretofore.

Your memorialists respectfully ask your early and favorable consideration, and as in duty bound, will ever pray.

Resolved, That a copy of this memorial be sent to the President of the United States, the Hon. Secretary of the Interior, and to our Delegate in Congress.

Approved, January 9th, 1873.

NO. 3.

A MEMORIAL TO CONGRESS RELATIVE TO A CODIFICATION OF
THE LAWS OF DAKOTA TERRITORY.

*To the Honorable, the Senate and House of Representatives of
the United States in Congress Assembled:*

Your Memorialists, the Legislative Assembly of the Territory of Dakota, would respectfully represent, that the laws of Dakota, enacted since the first session of the Legislature in 1862, are in a state of confusion, so much so that it is very difficult to tell what laws are in force and effect, and what laws have been repealed. The laws now on our statute books are the enactments of ten Legislatures; and until the laws are codified, this uncertainty will continue, much to the embarrassment of our courts, and seriously detrimental to the interests of justice.

A memorial to congress relative to a codification of the laws of Dakota Territory.

You memorialists would therefore ask that the surplus fund belonging to the appropriation for Legislative expenses in this Territory, together with an additional sum sufficient to meet the expense, said sum to be not less than ten thousand dollars, be set apart and appropriated for the purpose of codifying and compiling the said laws; and that the secretary of this Territory be required and authorized to employ a commission of competent persons to perform the labor of compiling and arranging said laws, who shall receive a reasonable compensation therefor; and that the said secretary shall also procure the laws, when so codified, printed in one volume, suitably indexed.

Resolved. That a copy of this memorial be forwarded to the chairmen of the judiciary committees of the Senate and House of Representatives of Congress, respectively; also to the secretary of the treasury; also to Hon. R. W. T ayl er, First Comptroller Treasury Department; also one to our Delegate in Congress.

Approved, January 10th, 1873.

NO. 4.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES, PRAYING FOR A GRANT OF LAND TO AID IN THE CONSTRUCTION OF THE DAKOTA AND NORTHWESTERN RAIL ROAD.

A memorial to the congress of the United States, praying for a grant of land to aid in the construction of the Dakota and Northwestern railroad.

Your Memorialists, the Legislative Assembly of the Territory of Dakota, would most respectfully pray your honorable bodies, to make a liberal grant of land to aid the Dakota and Northwestern Railroad Company, a corporation organized under the laws of this Territory, in extending their road from Yankton via Bon Homme and Springfield, to the mouth of Big Cheyenne river; and your memorialists would represent, that said railroad is completed and in running order from the Big Sioux river, to Yankton, the capital of this Territory: and your memorialists would further represent, that the line of said road extends up the valley of the Missouri river, from the settled portions of Dakota and northwestern Iowa, to the mouth of the Big Cheyenne river, in the most direct and feasible route from the Big Sioux river, to the crossing of the Missouri river, by the Northern Pacific railroad.

Approved, January 10th, 1873.

NO. 5.

A MEMORIAL TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES IN CONGRESS ASSEMBLED, ASKING FOR A GRANT OF LAND IN THE TERRITORY OF DAKOTA, TO AID IN THE CONSTRUCTION OF THE DAKOTA CENTRAL RAILROAD.

A memorial to the honorable senate and house of representatives in congress assembled, asking for a grant of land in the Territory of Da-

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully represent, that the Dakota Central R. R. Co. is a legal corporation, organized in January, 1870, in accordance with the laws of this Territory, for the purpose of constructing and operating a line of railroad from

the city of Yankton, the capital of the Territory, in a north-^{kota, to aid in}erly direction up the valley of the Dakota, or James river, to^{the construc-} annex with the Northern Pacific Railroad, at or near the for-^{tion of the Da-}ty-sixth parallel; also for a branch from the main line at^{kota Central} some point south of township line No. 101 and 102 north,^{railroad.} running westerly through the Black Hills to the western boundary of the Territory, said branch to cross the Missouri river between the mouth of the White Earth and Cheyenne rivers, and having eighty miles already surveyed on the line of the road; and having also a lease of about 30 miles of the unbuilt portion of the Dakota Southern Railroad, which is the only railroad now being built in Dakota Territory, south of the forty-sixth parallel, its length being 65 miles, and connecting with other roads of Sioux City, Iowa.

Your memorialists would respectfully represent, that the Dakota Southern Railroad is the only road in Dakota authorized to receive local aid in its construction, which authority was given by Congress at the first session of the forty-second Congress; and this is found to be a great hardship upon the settlers in a new country but sparsely populated.

Your memorialists would further represent, that the country south of the land grant of the Northern Pacific Railroad embraces an extent of prairie land about three hundred miles wide, running east and west across the Territory of Dakota, and wholly destitute of timber and coal, excepting small belts of timber along the margin of large rivers.

The soil of Dakota is very rich, and especially adapted to agricultural purposes; but we find it difficult to induce emigration to the interior, owing to the scarcity of fuel, coal, lumber and other necessaries of life.

Your memorialists would represent, that the States of Iowa, Minnesota, Kansas and Nebraska, as well as most of the other States and Territories, have received generous donations of lands to enable them to build up large and prosperous communities, and thousands of miles of railroads; that the Northern Pacific Railroad is of no benefit directly to the Missouri slope of Dakota, comprising an area of thousands of square miles of superior tillable lands, and that it is impossible for the people of this Territory to call in eastern capital to aid in building railroads without a land grant.

Therefore, your memorialists respectfully urge that a liberal grant of land in alternate sections of unoccupied land on each side of the line of the Dakota Central Railroad, be given to this corporation, with the provisions that the lands so donated shall be sold only to actual settlers, at a price not exceeding two and one-half dollars per acre.

And your memorialists, as in duty bound, will ever pray.

Approved, January 10th. 1873.

NO. 6.

A MEMORIAL TO CONGRESS PRAYING FOR AN APPROPRIATION
TO ERECT A CAPITOL BUILDING IN DAKOTA TERRITORY.

*To the Honorable, the Senate, and House of Representatives of
the United States in Congress Assembled:*

A memorial
to congress,
praying for an
appropriation
to erect a capi-
tol buiding in
Dakota Territo-
ry.

SECTION 1. Your memorialists, the Legislative Assembly of the Territory of Dakota, would most respectfully ask that an appropriation be made by your honorable bodies, for the erection of a capitol building, at the seat of government, of said Territory, and urge in support of this memorial:

SEC. 2. That the building now used by the several federal officers of this Territory, are rented of private individuals, and are wooden tenements, in all respects unsafe, and liable at any time to be destroyed by fire, together with their valuable contents.

SEC. 3. That the legislative, executive, and judicial records, files, libraries, furniture, and other valuables, are, at all times, in consequence, liable to injury and total destruction, and we regard their preservation of vital importance to our Territory.

SEC. 4. That the rent now paid must increase as the value of property increases, for the several officers: the Executive's.

the Secretary's, the Surveyor General's, the U. S. Marshal's, the U. S. Attorney's, and the U. S. Court Room and Legislative Halls, would, in a few years, pay the expense of erecting a suitable building for the accommodation of the various federal officers and legislative assembly, and therefore the expenditure of a sum sufficient for that purpose, would be absolute economy.

SEC. 5. Your memorialists regard this matter of great importance to Dakota; and would therefore most earnestly pray, that an appropriation of not less than forty thousand dollars, be made for the purpose above stated.

SEC. 6. And your memorialists will, as in duty bound, ever pray.

SEC. 7. *Resolved*, That a copy of this memorial be sent to our Delegate in Congress, and he be respectfully requested to bring the subject of the same to the immediate attention of Congress, and use all honorable means to bring about the asked for appropriation.

Approved, January 10th, 1873.

NO. 7.

A MEMORIAL TO CONGRESS, ASKING FOR A GEOLOGICAL SURVEY OF THE TERRITORY OF DAKOTA.

To the Honorable the Senate and House of Representatives of the United States in Congress Assembled:

Your memorialists, the Legislative Assembly of the Territory of Dakota, most respectfully represent, that the Black Hills and Bad Lands of Dakota Territory, lying near the 102° meridian of longitude, and between the Niobrara and Yellowstone rivers, is a region which has always excited the interest of geologists and explorers, but remains at the present time a mysterious, untraveled belt of the continent, where none but the wild beasts and red man hold dominion; that

A memorial to congress asking for geological survey of the Territory of Dakota.

on account of the determined and superstitious hostility of the Indians in that region, no geologist survey has ever been made among the mysterious ruins of the Bad Lands, save a hasty survey by Evans, in 1849, and Hayden, in 1855-6.

The Black Hills, says Lieut. Warren, who visited their base, are composed of the same formations of stratified rocks as are found in the gold bearing gulches of the Wind-river and Big Horn mountains; these hills, in his opinion, being but an out-cropping spur of the great Rocky Mountain range, in the vicinity of the Bannock and Virginia City mines.

Dr. Hayden, the geologist, says the lowest member of the salurian period, or gold-bearing strata, are quite well developed in the Black Hills, and the recent discoveries made by Gen. Sully's Indian expedition, which crossed the northern trend of the Bad Lands, in 1864, clearly indicates that the next succeeding formation, known as the Devonian system, is brought to light in the floor of the Bad Land basin, and

WHEREAS, This system is known in geology as the period in the earth's formation, which corresponds with the fourth day of creation, where the great coal measures of the earth commenced their slow formation with the first appearance of vegetation upon the globe; and

WHEREAS, It is an established geological fact, that the most extensive coal deposits are met with in all countries next above the devonian series, and the petroleum or oil-bearing rocks are to be found in this and the lower salurian period, which Dr. Hayden affirms are quite well developed in the Black Hills; and

WHEREAS, It is now the prevailing opinion among geologists, based upon scientific reasoning, that the basin of the Bad Lands is the ancient bed of a great coal field, which became self-ignited at some period, and like many of the coal fields of England, has been slowly burned out by its own bituminous fuel; and

WHEREAS, Colter and others, in 1804-5, crossed the northern trend of this great fire land, where, at that early day they represent the whole country as being on fire, emitting a carboniferous smoke, and the sound of rumbling thunder from the heated earth; and as these phenomena were mentioned by Lewis and Clark in 1806, and by Hunt, McKenzie and Crooks,

in their fur expedition to the mountains in 1811, there is conclusive evidence to sustain the statement made by Gen. Sully, in his official report of 1864, that, "coal exists in all the country from the Missouri to the Yellowstone.

A memorial to Congress asking for geological survey of the Territory of Dakota.

Humbolt and Lafond make mention of mountain-reports being heard in the vicinity of these hills, in the early part of the present century, which the wild and superstitious natives of that region believed to be the bursting of rich mineral deposits, the locality of which were revealed only to the red man. But modern discovery and science account for these strange phenomena by attributing the cause to an escape of hydrogen from subterraneous beds of burning coal.

Later travelers inform us that since the year 1830, these strange "fires and explosions" have ceased. Capt. Booneville, in 1834, and Parker, in 1835, found nothing but the silent, dismal and mysterious ruins of this great subterraneous conflagration, heaped in charred and crumbling towers and castles standing in the midst of a solitary valley of ashes, bones and petrifications.

This theory in the origin of the Bad Lands being sustained by both history and geology, it is confidently believed by the people of the Northwest, that coal oil reservoirs will yet be found in great abundance at the north and east base of the Black Hills. Here in the upheaval of this mountain range, geology points to the oil-bearing rocks of the devonian and salurian formations, which have been thrown up through and above the surrounding coal fields which border immediately upon the base of these mountainous hills.

Prof. Owens, U. S. Geologist, in his report of 1852, in speaking of this mysterious region, compares the Bad Lands to "some magnificent city of the dead, where the labor and the genius of forgotten nations had left behind them a multitude of monuments of art and skill. At every step objects of the highest interest present themselves; embedded in the debris, lie strewn, in the greatest profusion, organic relics of extinct animals. All speak of the former existence of the most remarkable races that roamed about in bygone ages, high up in the valley of the Missouri, towards the sources of the western tributaries."

This eminent geologist demonstrates that all the strata composing the formation in the vicinity of the Black Hills and

Bad Lands " have been a succession of sediments or precipitates at the bottom of the ocean." Thus, says he, " the geologist is able to prove as satisfactorily as can be demonstrated a mathematical problem, that at the time these fossil mammalia of the Bad Lands lived, the ocean still ebbed and flowed over Switzerland, including its present site of the Alps, whose highest summits then reached only above the surface of the sea, constituting a small archipelago of a few distant islands in the expanse of the ocean."

The same geologists informs us that the Black Hills of Dakota; the silver-bearing placers of the Amazon; the rich Cordilleras of South America; the Himalaya range of India; the Alps, of Switzerland, and the volcanic Etna of Sicily, have all emerged from the sea at the same geological period, and the same formation of mineral-bearing strata can be traced in each.

The actual discovery of Astor's fur parties, in 1811, and of Captain Booneville, in 1834, of Harney, in 1865, Warren in 1856-7, Hayden in 1858-9, and Gen. Sully, in 1864, proves conclusively that the Black Hill region abounds not only in the precious metals, but in iron, coal, salt and petroleum, aside from its vast forests of pine.

Your memorialists would therefore pray, that a scientific exploration be made in this Territory, with an appropriation sufficient to carry the same into effect, and your memorialists, as in duty bound, will ever pray.

Resolved, That a copy of this memorial, duly signed and attested, be forwarded to the presiding officers of either House of Congress, to the chairman of the committees on Territories in either House, and to our Delegate in Congress.

Approved, January 8th, 1873.

NO. 8.

A MEMORIAL TO THE HONORABLE, THE SENATE AND HOUSE OF REPRESENTATIVES IN CONGRESS ASSEMBLED, PRAYING FOR A RIGHT OF WAY FOR THE EDEN, CANTON, SIOUX FALLS AND KEMPESKA RAILWAY COMPANY.

SECTION 1. Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully ask your honorable body for the passage of an act granting the right of way through the public lands of the Territory, for the purpose of enabling the Eden, Canton, Sioux Falls and Kempeska railway company, a corporation organized under the laws of the Territory, to extend its road and branches, by the most advantageous and practicable lines in accordance with its charters.

A memorial to the honorable senate and house of representatives in congress assembled, praying for a right of way for the Eden, Canton, Sioux Falls and Kempeska railway company.

SEC. 2. Your memorialists would respectfully ask that said right-of-way, be given to said company, together with sufficient grounds, each ten miles of said road, for the construction of station buildings, work-shops, etc., where said road passes through the public lands, and that privilege be granted of using materials from the public lands, for the construction of said road.

SEC. 3. That the said company shall have the power to mortgage in the usual manner, its franchises, road-bed and all property of every kind belonging to said company, to an amount not exceeding twenty-five thousand dollars per mile for the entire length of said road, upon such terms as may to said company seem best.

SEC. 4. And your memorialists would further represent that the charter of said company, calls for the building of said road, as follows, viz: Commencing at the town of Eden, Lincoln county, Territory of Dakota; thence on the most practicable route to Lake Kempeska, running through the towns of Canton, Sioux Falls, West Bend, and Clayton.

SEC. 5. And your memorialists further represent, that the incorporators of said Eden, Canton, Sioux Falls, and Kem-

peska railway company, are Pitt Dewey, P. S. DeGraff, W. H. H. Beadle, J. M. Stone, A. W. Hubbard, W. W. Walker, M. Vincent, Frazier Gillman, Charles Davis, William Ball, Stephen Ball, H. A. Jerauld, Thomas Knight, Joseph Millet, C. A. South, William Brown, William Cuppett, Fred. Winsor, J. C. Reynolds, S. H. Stafford, John Martin, J. Q. Fitzgerald, G. W. Harlan, J. H. Holsey, J. Geyon, B. S. Gillespie, Newton Clark, Jno. Bippus, C. Waltz, J. L. Phillips, P. C. Park, C. K. Howard, H. Corson, R. F. Pettigrew, A. Campbell, E. Heald, F. W. Pettigrew, Wm. Van Eps, N. E. Phillips, T. Dennis, J. Dowling, R. E. Pay, M. Trygstadt, A. B. Wheelock.

Approved, January 10th, 1873.

NO. 9.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES, ASKING THAT THE VALUABLE LANDS LYING WEST OF THE MISSOURI RIVER, MAY BE OPENED TO SETTLEMENT.

A memorial to the congress of the United States, asking that the valuable land lying west of the Missouri river, may be opened to settlement.

Your Memorialists, the Legislative Assembly of the Territory of Dakota, respectfully represent that all that portion of the Territory lying west of the Missouri river, comprising many thousand square miles, is claimed by the various bands of Sioux Indians, and is wholly inaccessible to white settlers: that upon the various tributary streams which flow into the Missouri from the west, large bodies of pine and other valuable timber exist, which would be of great worth to settlers in other portions of the Territory; that this is especially true of that section lying about the head-waters of the Cheyenne river, known as the Black Hills region, while it is believed by geologists and others who have been there, that coal and other minerals of value exist there in large quantities.

Your memorialists further represent, that the section about the Black Hills, is now used by the more hostile bands of Indians, as a refuge and hiding place, to which they can flee.

after committing depredations upon the whites and the friendly Indians, and that so long as they are permitted to occupy this section as a place of refuge, it will be found difficult, if not impossible to carry on the work of civilizing the Indians with any success; while, at the same time this vast region of inaccessible country, imposes a barrier to the extension of railroad lines, or other means of communication between sections which have already been settled, lying around it.

For these causes, your memorialists would earnestly pray your honorable body, to take some action which will lead to the assignment of such portion of these unoccupied lands as may be deemed proper and necessary, as reservations for the tribes of Indians, who now lawlessly roam over them, and that white settlers be allowed to explore and occupy such other lands as may not thus be set apart; believing, as your memorialists do, that such a course will be of great benefit, not only to white settlers, but to the Indians who are now allowed and encouraged to remain hostile and commit outrages upon peaceable citizens with the knowledge that they may here find a refuge and escape punishment for their crimes.

And your memorialists, as in duty bound, will ever pray.

Approved. January 8th, 1873.

NO. 10.

A MEMORIAL TO THE POSTMASTER GENERAL OF THE UNITED STATES, PRAYING THAT MAIL SERVICE ON THAT PART OF ROUTE No. 13902, FROM (YANKTON TO FORT RANDALL, DAKOTA TERRITORY) FROM SPRINGFIELD TO FORT RANDALL, BE INCREASED TO SIX TIMES A WEEK.

To the Honorable Postmaster General of the United States :

Your memorialists, the Legislative Assembly of the Territory of Dakota, would respectfully represent, that an increase of mail service on that part of Route No. 13902, from Spring-

A memorial to the postmaster general of the United States, praying that mail ser

vice on that
part of route
No. 13902, from
(Yankton to
Fort Randall,
Dakota Territo-
ry) from Spring
field to Fort
Randall, be in-
creased to six
times a week.

field to Fort Randall, Dakota Territory, necessary for the public good; and there are several post offices and villages along said route, in a prosperous condition, and demanding increased mail facilities on said route.

Your memorialists therefore urge that service be increased as herein recommended, and as in duty bound, will ever pray.

Resolved, That a copy of this memorial be forwarded, duly attested, to the Postmaster General, one to the presiding officers of both houses of Congress, and one to our Delegate, Hon. M. K. Armstrong.

Approved, January 9th, 1873.

NO. 11.

TO THE HONORABLE, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES, IN CONGRESS ASSEMBLED.

To the honor-
able the senate
and house of
representatives
of the United
States, in con-
gress assem-
bled.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would respectfully ask for the passage of a law by your honorable bodies, by which an actual settler may at any time cancel his pre-emption claim and enter it as a homestead, and the time which he has actually lived upon his pre-emption claim may be allowed him and deducted from the time now required by law for the settler to perfect his title to a homestead claim.

The reason to be given for the passage of such an act, is that many settlers have lived upon their pre-emption claims three or four years, spending their yearly gains in the improvement of their claims, and find themselves unable to pay the amount required by law to perfect a title to a pre-empted claim. Many, therefore, desire to change to a homestead claim, and to avail themselves of the time which they have already lived upon and improved their claims.

And your memorialists, as in duty bound, will ever pray.

Approved, January 9th, 1873.

NO. 12.

A MEMORIAL TO THE POSTMASTER GENERAL OF THE UNITED STATES, PRAYING THAT THE MAIL SERVICE ON ROUTE NO. —, FROM SIOUX CITY BY WAY OF RICHLAND, TO SIOUX FALLS, IN THIS TERRITORY, BE INCREASED TO SIX TIMES A WEEK.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would respectfully represent, that an increase of mail service on Route No. —, from Sioux City by way of Richland to Sioux Falls, in this Territory, is necessary for the public good, owing to the great increase of population in all of the counties along the important Sioux valley, which for fertility cannot be surpassed.

Your memorialists therefore urge that service be increased as herein recommended, and as in duty bound, will ever pray.

Resolved, That a copy of this memorial be forwarded, duly attested, to the Postmaster General, one to the presiding officers of both houses of Congress, and one to the Honorable M. K. Armstrong, our Delegate in Congress.

Approved, January 9th, 1873.

A memorial to the postmaster general of the United States, praying that the mail service on route No. —, from Sioux City by way of Richland, to Sioux Falls, in this Territory, be increased to six times a week.

NO. 13.

A MEMORIAL TO THE HONORABLE, THE SENATE AND HOUSE OF REPRESENTATIVES IN CONGRESS ASSEMBLED, PRAYING FOR A RIGHT OF WAY FOR THE SIOUX CITY, RICHLAND AND NORTHERN PACIFIC RAIL ROAD COMPANY.

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully ask your honorable body for the passage of an act, granting the right of way through the

A memorial to the honorable the senate and house of representatives

in congress assembled, praying for a right of way for the Sioux City, Richland and Northern Pacific railroad company

public lands of the Territory for the purpose of enabling the Sioux City, Richland and Northern Pacific railroad company, a corporation organized under the laws of the Territory, to extend its road by the most advantageous and practicable line in accordance with its charter.

And your memorialists would respectfully ask that said right of way be given to said company, together with sufficient ground each ten miles of said road, for the construction of station buildings, work-shops, depots, machine-shops, switches, side-tracks, turn-tables, water-stations, &c., where said road passes through the public lands, and that privilege be granted of using material from the public lands in the construction of said road.

And that the said company may have the power to mortgage in the *usual* usual manner, its franchise, road-bed and all property of every kind belonging to said company, to an amount not exceeding twenty-five thousand dollars (\$25,000) per mile, for the entire length of said road, upon such terms as may to said company seem best.

And your memorialists further represent, that the charter of said company calls for the building of said road, as follows: commencing at a point on the Big Sioux river opposite Richland, in Union county, Dakota Territory, in a northwesterly direction through Union, Clay and Turner counties, by the way of Richland, in said Union county, and Finlay, in Turner county; and thence in a northwesterly direction through Hanson and Pembina counties, to a point of intersection with the Northern Pacific Railroad, between the 98th and 102d degrees of Longitude.

And your memorialists further represent, that the incorporators of said railroad company, are William W. Frisbie, M. M. Rich, William Hamilton, Francis D. Cowles and C. Thomson.

Resolved, That a copy of this memorial be forwarded duly attested to both Houses of Congress, and to the Honorable M. K. Armstrong, our Delegate to Congress.

Approved, January 10th, 1873.

NO. 14.

A MEMORIAL TO THE HONORABLE, THE SENATE AND HOUSE OF REPRESENTATIVES IN CONGRESS ASSEMBLED, PRAYING FOR A RIGHT OF WAY FOR THE DAKOTA, BLACK HILLS AND EDEN RAILWAY COMPANY.

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully ask your honorable body for the passage of an act granting the right of way through the public lands of the Territory, for the purpose of enabling the Dakota, Black Hills and Eden railway company, a corporation organized under the laws of the Territory, to extend its road and branches by the most advantageous and practicable lines, in accordance with its charters.

A memorial to the honorable senate and house of representatives in congress assembled, praying for a right of way for the Dakota, Black Hills and Eden railway company.

And your memorialists would respectfully ask that said right-of-way, be given to said company, together with sufficient ground, each ten miles of said road, for the construction of station buildings, work-shops, depots, machine-shops, switches, side-tracks, turn-tables, water-stations, etc., where said road passes through the public lands, and that privilege be granted of using materials from the public lands in the construction of said road.

And that the said company shall have the power to mortgage in the usual manner, its franchise, road-bed and all property of every kind belonging to said company, to an amount not exceeding twenty-five (\$25,000) thousand dollars per mile for the entire length of said road, upon such terms as may to said company seem best.

And your memorialists further represent that the charter of said company, calls for the building of said road, as follows, viz: Commencing at the town of Eden, Lincoln county, Territory of Dakota; thence on the most practicable route through the Black Hills, to the west line of Dakota, running through the towns of Bloomingdale, Yankton, Bon Homme, and Springfield.

Names of In-
corporators.

And your memorialists further represent, that the incorporators of said Dakota, Black Hills and Eden railroad company, are Alexander Mitchell, S. S. Merrill, Wm. L. Woods, Geo. Alex. Batchelder, M. K. Armstrong, Geo. W. French, Wm. H. Peak, Arthur B. Wheelock, E. S. McCook, Frazier Gilman, Jeremiah Gehon, E. C. Gray, Stephen F. Bell, A. J. Mills, Wm. H. Ball, Jas. Hyde, E. B. Crew, J. P. Kidder, Chas. H. True, Nelson Miner, W. W. Brookings, John. A. Burbank, Ole Bottolfson, J. W. Turner, Chas. H. McIntyre, Geo. W. Kingsbury, J. R. Hanson, Alex. Hughes, Jas. M. Stone, Walter A. Burleigh, John L. Turner, Thos. B. Eagle, R. T. Wood, B. E. Wood, Lee Roy Woods, E. Miner, H. P. Cooley, L. D. F. Poore, Maris Taylor, A. W. Burrows, Enos Stutsman, F. J. DeWitt, D. T. Bramble, O. F. Stevens, J. D. Flick, W. P. Dewey, Wm. Pound, H. A. Jerauld, Joseph Mason, Randolph Mostow, C. B. Wheelock, R. R. Hitt, J. S. C. Morrison, Geo. H. Hand, L. S. Bayless, D. W. Allison, N. B. Campbell, A. F. Hayward, George E. Sanborn, Mitchell Vincent, Chas. F. Mallahan, J. B. Van Velsor, E. T. Griffith, Judson LaMoure, Michael Glynn, John O. Bates, H. A. Copeland, Gen'l C. T. Campbell, R. F. Pettigrew, Newton Clark, John Thompson, E. A. Williams, T. A. Kingsbury, T. W. Knight, T. Gilman, P. H. B. Clement, Wm. Brown, C. H. Wisor, J. C. Reynolds, S. H. Stafford, G. C. Moody, A. J. Sweetser, John Lawrence, Newton Edmunds, W. H. H. Beadle, J. H. Burdick.

Approved, January 10th. 1873.

NO. 15.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES, ASKING THAT AN ADDITIONAL LAND DISTRICT BE CREATED IN THE NORTHERN PORTION OF DAKOTA TERRITORY.

A memorial
to the congress
of the United
States, asking
that an addi-
tional land dis-
trict be created

Your petitioners, the Legislative Assembly of the Territory of Dakota, respectfully represent, that with the opening up of the Northern Pacific railroad, to general traffic, and the extensive immigration which will result there-

from, the convenience of settlers will require that an additional land district be created in the northern portion of the Territory, and we therefore most respectfully urge that such district be created, the office of the same to be located at a convenient and accessible point on the line of said Northern Pacific railroad.

And as in duty bound, your memorialists will ever pray.

Approved, January 10th, 1873.

NO. 16.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES, PRAYING FOR AN APPROPRIATION TO AID IN THE CONSTRUCTION OF A WAGON ROAD, FROM THE CITY OF YANKTON, VIA SCOTLAND, IN BON HOMME COUNTY, AND MILLTOWN, IN HUTCHINSON COUNTY, TO ROCKPORT, IN HANSON COUNTY, D. T.

Your memorialists, the Legislature of the Territory of Dakota, would most respectfully represent to your honorable bodies, that the interest of that portion of Dakota Territory, lying between the above mentioned points, would be greatly advanced by the construction of a wagon road, commencing at the city of Yankton, and running to Rockport, in Hanson county, D. T.

A memorial to the Congress of the United States, praying for an appropriation to aid in the construction of a wagon road from the city of Yankton via Scotland, in Bon Homme Co. and Milltown, in Hutchinson Co., to Rockport, in Hanson Co., D. T.

That the said road will run through a great portion of public land, a distance of 65 miles, and across numerous streams, the valleys of which are very valuable for agricultural purposes; and the construction of said road will tend to rapidly improve and quickly develop the resources of that very rich portion of our rapidly improving Territory, and at the same time confer a great favor on the hardy and industrious pioneers, who have braved dangers and difficulties, to create for themselves homes on our prairies, and who are obliged to transport, both building material and provisions from the city of Yankton, and that at certain seasons of the year the

road is almost impassable, and frequently the streams are entirely so, and that one mail runs over the entire length of said road, and one other over a great portion of it.

And that the construction of said road would tend to open more fully to settlement, a very large tract of valuable agricultural land along the line of said road, thus by the increased value of government lands, contribute largely toward refunding to the national treasury, any expenditure in constructing such road.

Your memorialists, therefore do most earnestly pray, that an appropriation of ten thousand dollars (\$10,000) may be made to aid in the construction of the said road; beginning at the city of Yankton, D. T., and running by the way of Scotland, in Bon Homme county, and Milltown, in Hutchinson county, to Rockport, in Hanson county, D. T.

And your memorialists, as in duty bound, will ever pray.
Approved, December 31st, 1872.

NO. 17.

A MEMORIAL TO THE POSTMASTER GENERAL OF THE UNITED STATES, PRAYING THAT THE MAIL SERVICE ON ROUTE No. 13600, FROM YANKTON TO SIOUX FALLS, DAKOTA TERRITORY, BE INCREASED TO SIX TIMES A WEEK.

To the Honorable the Postmaster General of the United States:

A memorial to the postmaster general of the United States, praying that the mail service on route No. 13,600 from Yankton to Sioux Falls, Dakota Territory, be increased to six times a week.

SECTION 1. Your memorialists, the Legislative Assembly of the Territory of Dakota, would respectfully represent, that an increase of mail service on that part of route No. 13600, from Yankton to Sioux Falls, Dakota Territory, is necessary for the public good; that said route runs across a very fertile section of Dakota, which is becoming densely populated; and there are several post offices and villages along said route, the latter in a thriving and prosperous condition, and demanding increased mail facilities on this route. Nothing

would prove of greater benefit in hastening the development of this section, while as an act of justice, it is urgently demanded.

Your memorialists therefore urge that service be increased as herein recommended.

And as in duty bound, your memorialists will ever pray.

Resolved, That a copy of this memorial be forwarded, duly attested, to the Postmaster General, one to the presiding officers of both houses of Congress, and one to the Delegate from Dakota.

Approved, January 6th, 1873.

NO. 18.

A MEMORIAL TO THE HONORABLE POSTMASTER GENERAL OF THE UNITED STATES, PRAYING THAT MAIL SERVICE MAY BE PLACED UPON THAT PORTION OF THE ESTABLISHED MAIL ROUTE FROM YANKTON TO THE NORTH PACIFIC R. R., THAT LIES BETWEEN ROCKPORT AND JAMESTOWN, ON THE N. P. R. R.

Your memorialists, the Legislative Assembly of Dakota Territory, would respectfully represent, that at present all mails passing between the settlements on the North Pacific Railroad, and those on the Missouri river, is carried over a very circuitous route, hundreds of miles further than if service was upon the whole of the route from Yankton to the N. P. R. R. And that settlement is being made fastly along the Dakota river, and in all probability will extend along the whole route by the 1st of July next, and they will depend entirely upon this route for the receipt of their mail. And your memorialists earnestly pray that service may be put upon the whole of said route at an early day.

A memorial to the honorable postmaster general of the United States, praying that mail service may be placed upon that portion of the established mail route from Yankton to the N. P. R. R., that lies between Rockport and Jamestown, on the N. P. R. R.

And your memorialists, as in duty bound, will ever pray.

Approved, January 6th, 1873.

NO. 19.

A MEMORIAL TO THE SECRETARY OF WAR, ASKING THAT
YANKTON, DAKOTA TERRITORY, BE NAMED AS ONE OF THE
STARTING POINTS FOR THE TRANSPORTATION OF MILITARY
SUPPLIES ON THE MISSOURI RIVER.

To the Hon. Secretary of War, Washington, D. C. :

A memorial
to the secretary
of war, asking
that Yankton,
D. T., be named
as one of the
starting points
for the trans-
portation of
military sup-
plies on the
Missouri river.

Your memorialists, the Legislative Assembly of the Territory of Dakota, desire to call your special attention to the importance of providing at this time for receiving bids for army transportation on the Missouri river, naming Yankton as a principal starting point.

This need not interfere with the reception of proposals as advertised for with Sioux City and Edwinton as starting points, while it may be found desirable when all the bids are received, to consider the advantages which may result from the extension of the Dakota Southern Railroad line up the Missouri river, from Sioux City to Yankton, thereby dispensing with one hundred and sixty miles of difficult river navigation.

The railroad will be completed to Yankton by February 1st, A. D. 1873, and will be thoroughly equipped with the best of rolling stock, while the city authorities have already, by direct action, tendered the use of whatever amount of land or warehouse room may be desired, free of cost, to the Government.

Your memorialists are satisfied that Yankton, as a starting point for river transportation to the upper forts, offer inducements that will save to the Government many days of time, as well as reduce the expense of transportation; and we therefore respectfully ask that Yankton be included as a starting point in the advertisement for transporting supplies.

And your memorialists, as in duty bound, will ever pray.

Resolved. That four copies of this memorial be enrolled, signed by the presiding officers of this Legislative Assembly.

and attested by the clerks, and that the Secretary of the Territory be requested to forward a copy to each of the following persons:

One to the Hon. Secretary of War;
 One to Gen. M. C. Meigs, Q. M. Gen. U. S. A.;
 One to Gen. Dan'l H. Rucker, A. Q. M. U. S. A.;
 And one to Hon. M. K. Armstrong, our Delegate in Congress.

Approved, December 28th, 1872.

NO. 20.

A MEMORIAL TO CONGRESS, ASKING THE ESTABLISHMENT OF A MAIL ROUTE, FROM MINERAL SPRINGS, DAKOTA TERRITORY, TO NIOBRARA, NEBRASKA, AND THAT SERVICE FROM SPRINGFIELD, IN SAID TERRITORY, VIA SAID MINERAL SPRINGS, AT LEAST THREE TIMES A WEEK, BE ORDERED ON SAID ROUTE.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would most respectfully represent, that the commercial and social interests of Mineral Springs and Springfield, in Bon Homme county, in this Territory, and Niobrara, Nebraska, demands the establishment of a mail route, with at least tri-weekly service on the same, from said Mineral Springs, Dakota Territory, to Niobrara, Nebraska, a distance of two miles, and that service should be placed on same, from said Springfield, Dakota, via Mineral Springs, Dakota, to said Niobrara, Nebraska.

A memorial to congress asking the establishment of a mail route, from Mineral Springs, D. T., to Niobrara, Neb., and that service from Springfield, in said Territory, via said Mineral Springs, at least three times a week, be ordered on said route.

That there is no mail route established between said Mineral Springs, Dakota, and Niobrara, Nebraska, and they are destitute of mail facilities, except what is carried by private individuals.

Therefore your memorialists would most urgently ask the early establishment of said route, with at least tri-weekly service on same, from said Springfield, Dakota, via Mineral Springs, Dakota, to said Niobrara, Nebraska, and as in duty bound, will ever pray.

Approved, January 9th, 1873.

NO. 21.

A MEMORIAL TO CONGRESS, ASKING FOR THE ESTABLISHMENT OF A MAIL ROUTE FROM YANKTON, DAKOTA TERRITORY, VIA GREEN ISLE, BEAVER CREEK, TRUESDELL, SANTEE CITY, BAZILLE MILLS, HAPPY VALLEY AND MINERAL SPRINGS, NEBRASKA, TO FRENCHTOWN, NEBRASKA.

A memorial to congress asking for the establishment of a mail route from Yankton, D. T., via Green Isle, Beaver Creek, Truesdell, Santee City, Bazille Mills, Happy Valley and Mineral Springs, Neb., to Frenchtown, Neb.

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully represent, that it is important to the interests of the inhabitants of Northern Nebraska and the Territory of Dakota, that a direct mail communication be established between Yankton, Dakota Territory, via Green Isle, Beaver Creek, Truesdell, Santee City, Bazille Mills, Happy Valley and Mineral Springs, Nebraska, to Frenchtown, Nebraska, on the Elk Horn river, a distance of about sixty miles.

That the country along said route is densely populated, and it is our belief that the postal revenue on said route would exceed the expense.

That the route is very direct and practicable, and the main thoroughfare between said city of Yankton and Frenchtown. That it would supply two thousand people with mail.

That Yankton is now recognized as the commercial center for this whole section of country, and is the nearest railroad point to said Frenchtown, Nebraska; but owing to the present postal facilities, no direct communication exists between the points heretofore named.

As by far the greater portion of the business of the country west and north of Yankton, along the route named, is connected with people and merchants of Yankton, the establishment of the route asked for would be a great benefit to the people of Northern Nebraska and the Territory of Dakota.

Your memorialists would therefore pray, that a mail route be established between said city of Yankton, Dakota Territory, via Green Isle, Beaver Creek, Truesdell, Santee City, Bazille Mills, Happy Valley and Mineral Springs, Nebraska; to Frenchtown, Nebraska, and that daily services be ordered upon said mail route.

And that this request may be promptly granted, your memorialists, as in duty bound, will ever pray.

Approved, January 9th, 1873.

NO. 22.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES, PRAYING FOR A GRANT OF LAND IN DAKOTA TERRITORY, TO AID IN THE CONSTRUCTION OF THE VERMILLION VALLEY AND NORTHERN PACIFIC RAIL ROAD.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would most respectfully represent to your honorable bodies, that the Vermillion valley is already settled from the Missouri river north, through the counties of Clay and Turner, a distance of about sixty miles, by an intelligent and industrious class of citizens; that settlement has been made in the face of great disadvantages, on account of the almost entire destitution of timber, even for fuel; that settlers have been encouraged to brave the hardships and deprivations consequent upon so hazardous an enterprise, in the hope and expectation that a country so beautiful and fertile would very soon be traversed by railroads, under the impulse

A memorial to the Congress of the United States, praying for a grant of land in Dakota Territory to aid in the construction of the Vermillion Valley and Northern Pacific Rail road.

of government aid, approximating at least the aid granted in the States bordering our Territory.

That citizens of the Territory have under the general law for that purpose, organized a company under the name of the Vermillion Valley and Northern Pacific railroad company, to build a road from the town of Vermillion, by way of Bloomingdale, Lodi, Turner and Finlay; and thence in a northerly direction to form a junction with the Northern Pacific, at a point near the crossing of the Dakota river at Fort Cross.

And your memorialists would therefore most earnestly pray your honorable bodies, to grant to said Vermillion Valley and Northern Pacific railroad company, alternate sections on each side of the line of their road, for a strip ten miles wide, under such restrictions as to sale and settlement as shall seem proper and just.

Approved, December 28th, 1873.

NO. 23.

A MEMORIAL TO THE PRESIDENT OF THE UNITED STATES RELATIVE TO THE PEMBINA BAND OF CHIPPEWA INDIANS.

To His Excellency the President of the United States:

A memorial to the President of the United States, relative to the Pembina band of Chippewa Indians.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would most respectfully represent, that the Pembina band of Chippewa Indians are still occupying the lands on the Dakota side of the Red River of the North, which were ceded by the said band, and the Red Lake band of Chippewas in their treaty with the United States in 1863, and that the occupation of said lands by said Pembina band is a great nuisance to the white settlements on the Pembina and Red rivers; and also retards the establishment and growth of new settlements on the ceded lands.

Your memorialists therefore pray, that said last named band of Indians be removed from the ceded lands, and settled upon their reservation at the White Earth Agency, in Minnesota, according to the stipulations of said treaty.

And your memorialists, as in duty bound, will ever pray.

Approved, January 6th, 1873.

NO. 24.

A MEMORIAL TO THE HONORABLE, THE SENATE AND HOUSE OF REPRESENTATIVES IN CONGRESS ASSEMBLED, PRAYING FOR A RIGHT OF WAY OVER PUBLIC LANDS IN DAKOTA TERRITORY, FOR THE DAKOTA PACIFIC & MISSOURI RIVER RAILROAD.

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully represent, that the Dakota Pacific & Missouri River Railroad Company is a corporation duly organized in September, 1872, in accordance with the laws of this Territory, approved January 6th, 1868, for the purpose of constructing and operating a line or lines of railroad, commencing at a point on the Dakota Southern Railroad, in Union county, Territory of Dakota, and running in a northwesterly direction through the counties of Union, Clay, Lincoln, Turner, Hanson, Hutchinson and Buffalo, to a point at or near the crossing of the Missouri river by the Northern Pacific Railroad, having also the right to establish, construct and operate branches from the city of Yankton, running through Yankton and Turner counties, to intersect said main line; also a branch line to intersect that of the Winona & St. Peter's Railroad, at a point most convenient when said Wi-

A memorial to the honorable senate and house of representatives in congress assembled, praying for a right of way over public lands in Dakota Territory, for the Dakota Pacific & Missouri River R R

nona & St. Peter's R. R. line shall have been established; also a branch line to intersect the Northern Pacific Railroad at or near its crossing of the Dakota, or James river, or to intersect the Dakota Central Railroad, if that road be built.

And your memorialists most respectfully ask, that for the purpose of enabling the Dakota Pacific & Missouri River Railroad Company to extend its road and branches by the most advantageous and practicable lines, in accordance with its charter, the right of way through the public lands in the Territory of Dakota, be granted to said company; also a sufficient quantity of ground, each ten miles on the lines of said road, for the purpose of constructing station buildings, workshops, depots, machine shops, side tracks, turn tables, water stations, etc; and also that privilege be granted to use material on the public lands in the construction of said road.

And that the said road shall have the power to mortgage, in the usual manner, its franchise road bed and all the property of every kind belonging to said company, to an amount not exceeding twenty-five thousand (\$25,000) dollars per mile, upon such terms as may to the company seem best.

And your petitioners, as in duty bound, will ever pray.

Approved, January 9th, 1873.

NO. 25.

TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES
OF THE UNITED STATES IN CONGRESS ASSEMBLED.

To the honorable the senate and house of representatives of the United States in congress assembled.

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully ask, that a weekly mail route may be established by your honorable bodies, between Elk Point, Union county, and Turner, Turner county, Dakota Territory.

Your memorialists, as a reason for said request and prayer, would respectfully represent and make known to your honor-

able bodies, among other things, that there is at present a post office established, with a postmaster appointed, commissioned and qualified, at each of said points through which your memorialists pray that said route as above may be established.

That the nearest mail route at present established by law, is at a distance varying from six to twenty miles from said offices so established, by reason of which a numerous and growing population are compelled to depend wholly upon uncertain and private sources to obtain their mail, or any of the facilities or benefits of the postal laws of the United States.

That the distance of said route, which your memorialists pray may be established, will not exceed forty miles, and the road between and through said points is in good condition at all seasons of the year, viz: From Elk Point, northwest to the section line between sections twenty-nine (29) and thirty (30), town ninety-two (92), range fifty (50); thence north on said line to the township line between towns ninety-six (96) and ninety-seven (97), range fifty (50); thence on the most practicable route to Turner, in Turner county.

That the road is in good condition at all seasons of the year, having been established and improved the greater part of the way for many years.

That at all points along said route there is a dense and permanent population of enterprising and industrious citizens; and that the region of country through which said route is established, is of the most productive and fertile in the Territory of Dakota.

And your memorialists will, as in duty bound, ever pray.

Resolved, That our Delegate to Congress be requested to call the attention of the proper committees of Congress to the object of this memorial.

Approved, December 28th, 1872.

NO. 26.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES, FOR
AN APPROPRIATION TO CONSTRUCT A BRIDGE ACROSS THE
BIG SIOUX RIVER, AT A POINT OPPOSITE THE TOWN OF
RICHLAND, IN UNION COUNTY, DAKOTA TERRITORY.

*To the Honorable Senate, and House of Representatives of the
United States in Congress Assembled:*

A memorial
to the congress
of the United
States, for an
appropriation
to construct a
bridge across
the Big Sioux
river, at a point
opposite the
town of Rich-
land, in Union
county, Dakota
Territory.

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully ask that your honorable bodies will make an appropriation of such an amount as may be deemed sufficient for the construction of a bridge across the Big Sioux river, at a point opposite Richland, in Union county, in this Territory.

The importance of this bridge to the interests of at least two-thirds of the hardy and industrious settlers of Union county, can be attested by our Delegate in Congress.

That this bridge forms the connecting link between the State of Iowa, and this Territory, on a Territorial road, leading by the shortest route to the Capital, besides connecting this Territory with a large and important part of Plymouth county, in the State of Iowa, whose settlers are equally interested in this bridge, from the fact that the mail route hitherto established from LeMars, in that county, to Yankton, has been discontinued, owing to the fords on said Big Sioux river, (during most of the summer season) being impracticable.

That those settlers now so numerous, have to go to LeMars, a distance of twenty miles for their mail matter.

And your memorialists will, as in duty bound, ever pray.

Resolved, That our Delegate to Congress be requested to call the attention of the proper committees of Congress to the object of this memorial.

Approved, December 28th, 1872.

NO. 27.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES,
 PRAYING FOR THE SPEEDY SETTLEMENT OF ALL CITIZENS
 CLAIMS ON THE FORT RANDALL MILITARY RESERVATION.

*To the Honorable, the Senate, and House of Representatives of
 the United States in Congress Assembled :*

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully ask that your honorable bodies will, at the earliest time possible, make provisions for a final settlement of the claims of certain settlers on the Fort Randall military reservation, in Dakota Territory.

A memorial to the Congress of the United States, praying for that speedy settlement of all citizens claims on the Fort Randall military reservation.

The importance of this settlement at an early day of the present session, will be of a great help to all parties interested as it will enable them to locate, (if obliged to) early the coming spring, which will be very beneficial to the settlers and justice to the Territory.

The necessity of this settlement can be placed before your honorable bodies by our Delegate in Congress, Honorable M. K. Armstrong.

And your memorialists will, as in duty bound, ever pray.

Resolved, That our Delegate in Congress be requested to call the attention of the proper committees of Congress to the subject matter of this memorial.

Approved, January 6th. 1873.

NO. 28.

A MEMORIAL TO CONGRESS, ASKING FOR AN APPROPRIATION
TO REMOVE THE OBSTRUCTIONS TO NAVIGATION ON THE RED
RIVER OF THE NORTH.

*To the Honorable, the Senate, and House of Representatives of
the United States in Congress Assembled:*

A memorial
to congress,
asking for an
appropriation
to remove the
obstructions to
navigation on
the Red River
of the North.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would most respectfully represent, that owing to such obstructions as "Goose Rapids" and other natural impediments, the navigation of the Red River of the North, from the Northern Pacific Railroad to Pembina, by steam vessels, of even one hundred and fifty tons burthen, is rendered difficult, at times dangerous; and as the very extensive carrying business, during the five years last past, done on said river, would seem to warrant a liberal expenditure by the general government, in rendering said business easy and safe, thereby promoting the speedy development of the vast natural resources of the great Red river valley.

Therefore, we your memorialists, do most respectfully pray, that an appropriation be made, of a sufficient sum, to secure the object above stated.

And in duty bound, your memorialists will ever pray.

Approved, January 6th, 1873.

NO. 29.

A MEMORIAL TO THE POSTMASTER GENERAL OF THE UNITED STATES, PRAYING FOR SERVICE ONCE A WEEK, ON MAIL ROUTE NO. ———, FROM MEDARY, BROOKINGS COUNTY, DAKOTA TERRITORY, TO MARSHFIELD, IN THE STATE OF MINNESOTA.

SIR:—Your memorialists, the Legislative Assembly of Dakota Territory would most respectfully represent, that mail service on route No. ———, is demanded for the good of the rapidly settling country through which said route passes.

That the distance by the existing mail route between Medary, Dakota Territory, and Marshfield, Minnesota, on which service is now had, is over two hundred miles, while the distance by mail route No. ———, is but thirty-five miles.

That the country around Medary is rapidly settling up, and that a town of considerable size exists there at the present time, and that by this mail route alone can they obtain direct communication with the east.

Your memorialists would therefore request that service be ordered on said route at least once a week.

And as in duty bound, your memorialists, will ever pray.

Approved, January 8th, 1873.

A memorial to the postmaster general of the United States, praying for service once a week, on mail route No. ———, from Medary, Brookings county, Dakota Territory, to Marshfield, in the State of Minnesota.

NO. 30.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES, PRAYING FOR A GRANT OF LAND IN THE TERRITORY OF DAKOTA, TO AID IN THE CONSTRUCTION OF THE DAKOTA, PACIFIC AND MISSOURI RIVER RAILROAD.

To the Honorable. the Senate and House of Representatives in Congress Assembled:

A memorial to the Congress of the United States, praying for a grant of land in Dakota Territory, to aid in the construction of the Dakota, Pacific & Missouri River R. R.

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully represent, that the Dakota, Pacific and Missouri River Railroad Company is a chartered corporation, duly organized under the laws of the Territory. act of 6th January, 1868, proposing to construct and operate a line or lines of railroad, commencing at a point on the Dakota Southern Railroad, in Union county, in this Territory; and thence running in a northwesterly direction through the counties of Union, Clay, Lincoln, Turner, Hanson, Yankton, Hutchinson and Buffalo, to a point at or near the crossing of the Missouri river by the Northern Pacific Railroad, having also the right to establish and operate branches from the city of Yankton, the capital of the Territory, running through Yankton and Turner counties, to intersect said main line; also a branch line to intersect that of the Winona & St. Peter's Railroad, at a point most convenient when said Winona & St. Peter's Railroad shall have established their line; also a branch line to intersect the Northern Pacific Railroad at or near its crossing of the Dakota, or James river, or to intersect the Dakota Central Railroad, running in that direction, if said Dakota Central shall be built.

The main line of this road running diagonally across the whole southern portion of this Territory, and intersecting with the Northern Pacific R. R. at or near the southern line of the contemplated new Territory of Pembina, should Dakota be divided, having the advantage of a northwesterly direction, it *would* would be free from snow in the winter, and afford an outlet to the East for the trains of the Northern Pacific Railroad.

Your memorialists respectfully represent, that the Northern Pacific Railroad, running through this Territory, between the 46th and 47th parallels, is far removed from the southern and settled portion of this Territory, and without connection is of no present value to our settlers; that the Dakota Southern Railroad, a line of sixty-five miles in length, is the only other railroad built within the limits of the Territory, the latter road being constructed with local aid after much trouble and many trials.

And we further respectfully represent that we know by experience that it is impossible to construct railroads to any extent, in a new country, with a small population, by local aid, and of the great difficulty of diverting eastern capital westward without the aid of land grants.

Your memorialists respectfully represent, that the Territory of Dakota comprises an area of upwards of one hundred and fifty thousand square miles, and nearly one hundred millions of acres of land; that it is to a great extent prairie land, exceedingly rich and productive soil, and when properly cultivated, yielding great returns; but excepting on the margins of great rivers, and in now inaccessible portions of the Territory, there is no timber or coal; and it must be obvious to your honorable body that though surrounded with an immense area, comprising thousands upon thousands of square miles of superior agricultural land, it is difficult, and next to impossible to induce even the most hardy and enterprising immigrants to fix their homes so far away from markets of sale and purchase, and the all important supply of fuel and lumber, as well as the necesssities of life.

Your memorialists beg further to call your attention to the fact that excepting in the case of the Northern Pacific Railroad, the Territory of Dakota has never received the aid of the general government to develop its resources by railroads, while nearly all the western States and Territories have received generous grants of land for railroad and educational purposes, by which means large and prosperous States densely populated, have been erected from prairie countries as uncultivated and unbroken as the Territory of Dakota now is. The present population of Dakota feel that they have the same claim upon the general government, and desire the same

opportunities to develop their country as has been afforded to the States that surround it; and we feel confident that with the present aid we seek that our Territory will rapidly advance in population; that a vast extent of land now and for many years to come, in its present state, of no value to the Government, will become settled and cultivated, and consequently taxable; and that we, as a Territory, will soon be self-supporting, an event which we are convinced must be long delayed without assistance.

Your memorialists are aware of the objections urged in the later session of Congress, to donating public lands to corporations, but feel assured that upon a careful examination of the resources of the Territory, agriculturally considered, the immense quantity of land now lying idle, capable of productive tillage, the certainty of large immigration, which will be influenced by extended and ample communication with markets for grain and produce, lumber, fuel, and the manufactories of the East; and our present positive helplessness to develop this great property that our solicitations will be rewarded.

Your memorialists would therefore most respectfully and earnestly urge, that in addition to the right of way already asked for, that a liberal grant of lands belonging to the public domain in this Territory, be given to aid in the construction of the Dakota, Pacific and Missouri River Railroad, in alternate sections on each side of the proposed line and its branches, with a provision that the lands so granted shall be sold only to actual settlers, at a price not exceeding two and one-half dollars per acre.

And as in duty bound, your memorialists will ever pray.

Approved. January 10th. 1873.

NO. 31.

A MEMORIAL TO CONGRESS, ASKING FOR AID IN THE CAUSE OF
EDUCATION IN THE TERRITORY OF DAKOTA.

WHEREAS, Congress has from time to time been so mindful of the educational interests of the several States of our country, as to make wise and judicious appropriations for the establishment of colleges and the mental culture of the people; and

A memorial to congress, asking for aid in the cause of education in the Territory of Dakota.

WHEREAS, Such acts have had no application to the Territories, which, in their infancy are poor and much more needy of assistance than rich and populous State; and

WHEREAS, It is important that all social communities should in the beginning, lay the foundation of an educational system which will educate the rising generation, and act as an inducement to encourage the better and more enlightened classes of immigration, instead of repelling them by an appearance of apathy in regard to educational interests: therefore

Your memorialists, the Legislative Assembly of the Territory of Dakota, would respectfully request your honorable body to appropriate to the cause of education in the Territories, one-third of all the monies received from the sale of public lands lying within their limits.

And your memorialists, as in duty bound, will ever pray.

Resolved, That a copy of this memorial, duly authenticated, be transmitted to our Delegate in Congress, M. K. Armstrong.

Approved, December 28th, 1872.

NO. 32.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES,
 PRAYING FOR AN APPROPRIATION TO AID IN THE CONSTRUCTION OF TWO BRIDGES ACROSS THE DAKOTA RIVER, ONE AT MAXWELL CITY, IN HUTCHINSON COUNTY, AND ONE AT ROCKPORT, IN HANSON COUNTY, DAKOTA TERRITORY.

A memorial to the congress of the United States, praying for an appropriation to aid in the construction of two bridges across the Dakota river, one at Maxwell City, in Hutchinson county, and one at Rockport, in Hanson county, D. T.

Your memorialists, the Legislature of Dakota Territory, would most respectfully represent to your honorable bodies, that the interests of that portion of Dakota Territory, lying on each side of the Dakota river, at or near Maxwell City, in Hutchinson county, and Rockport, in Hanson county, would be materially enhanced and immigration greatly aided, as well as the convenience and necessity of local inhabitants, subserved by the construction of two bridges, one at Maxwell City, the present terminus of the Territorial road leading from Canton, in Lincoln county, to said place; and one at Rockport, in Hanson county, the present terminus of the mail route and Territorial road, from Yankton, northward along the valley of the Dakota river. That the inhabitants on one side of the river are at present cut off from their base of supplies, postoffice and school privileges, by the said river, which is impassible during the greater part of the year. That the said bridges are necessary adjuncts of thoroughfares which are becoming highly important in accomodating the tide of immigration to the central and western portion of the Territory.

Your memorialists, therefore do most earnestly pray that an appropriation of (\$10,000) ten thousand dollars, be made to aid in the construction of said bridges across said Dakota river, one at Maxwell City, in Hutchinson county, and one at Rockport, in Hanson county, Dakota Territory.

And your memorialists, as in duty bound, will ever pray.

Approved. January 6th, 1873.

NO. 33.

A MEMORIAL TO THE POSTMASTER GENERAL OF THE UNITED STATES, PRAYING THAT THE MAIL SERVICE ON ROUTE NO. —, FROM FORT RANDALL, TO FORT SULLY, DAKOTA TERRITORY, BE INCREASED TO THREE TIMES A WEEK.

To the Honorable Postmaster General of the United States:

Your memorialists, the Legislative Assembly of the Territory of Dakota, would respectfully represent, that an increase of mail service on route No. —, from Fort Randall to Fort Sully, Dakota Territory, is necessary for the public good. That said route runs through a very fertile section of Dakota, which will be densely populated in a very few years, and there are several military and Indian reservations along said route; the former of great importance to the government and citizens of said Territory, and demanding increased mail facilities on this route.

Nothing would prove of greater benefit to the military and Indian department of this section, than to have the mail service increased as this memorial represents, while as an act of justice it is urgently demanded.

Your memorialists therefore urge that service be increased as herein recommended, and as in duty bound, will ever pray.

Resolved, That a copy of this memorial be forwarded, duly attested, to the Postmaster General, one to the presiding officers of both houses of Congress, and one to the Honorable M. K. Armstrong, our Delegate in Congress.

Approved, January 8th, 1873.

A memorial to the postmaster general of the United States, praying that the mail service on route No. —, from Fort Randall, to Fort Sully, Dakota Territory, be increased to three times a week.

NO. 34.

A MEMORIAL TO THE POSTMASTER GENERAL OF THE UNITED STATES, PRAYING THAT THE MAIL SERVICE ON ROUTE NO. —, FROM SIOUX FALLS, TO MEDARY, DAKOTA TERRITORY, BE INCREASED.

A memorial to the honorable postmaster general of the United States, praying that mail service on route No. —, from Sioux Falls, to Medary, Dakota Territory, be increased.

SIR:—Your memorialists, the Legislative Assembly of Dakota Territory, would most respectfully represent, that the increase of mail service on route No. —, from Sioux Falls, to Medary, Dakota Territory, is necessary for the public good. That the said route runs along the valley of the Big Sioux river, a distance of sixty miles, which country is becoming densely populated for a distance of from five to fifteen miles on each side of the river.

Several towns and villages are springing up along said route, and for the want of greater mail facilities, the growth and prosperity of the same is retarded, and that an increase of service would do much to advance the future prosperity of the country.

Your memorialists would therefore earnestly request that service be increased to three times per week.

And, as in duty bound, your memorialists will ever pray.

Approved, January 8th, 1873.

NO. 35.

A MEMORIAL TO THE HONORABLE POSTMASTER GENERAL,
PRAYING THAT SERVICE SHALL BE ORDERED ON THE MAIL
ROUTE RUNNING FROM CANTON, VIA SWAN LAKE, ASHVILLE,
AND WOLF CREEK, TO MILLTOWN.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would respectfully represent, that that portion of our Territory through which the above mentioned route is established, is thickly settled at both termini, and also at all the intermediate points mentioned, and that at several points on the route, the settlers are obliged to travel many miles to procure their mail matter, and that the placing of service upon said route, would tend to the rapid improvement of said portion of our Territory, and also to the rapid settlement thereof.

A memorial to the honorable postmaster general praying that service shall be ordered on the mail route running from Canton, via Swan Lake, Ashville and Wolf Creek, to Milltown.

And your memorialists would respectfully pray, that service may be placed upon said route as soon as possible, and your memorialists, as in duty bound, will ever pray.

Approved, January 8th. 1873.

NO. 36.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES.
PRAYING FOR THE ESTABLISHMENT OF A MAIL ROUTE FROM
FORT SULLY, VIA GRAND RIVER AGENCY, FORT RICE, AND
BURLEIGH, TO FORT MCKEAN.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would respectfully pray that a mail route be established from Fort Sully, in Dakota Territory, via

A memorial to the Congress of the United States, praying

for the estab- Grand River Agency, Fort Rice, and Burleigh, at the North-
 lishment of a ern Pacific railroad crossing of the Missouri river, to Fort
 mail route from Fort Sully, via
 Grand River McKean, in Dakota Territory.
 Agency, Fort
 Rice and Bur-
 leigh, to Fort
 McKean.

And your memorialists, as in duty bound, will ever pray.

Approved, January 10th, 1873.

NO. 37.

A MEMORIAL TO CONGRESS ASKING FOR THE LOCATION OF A
 LAND OFFICE IN THE SIOUX VALLEY.

A memorial
 to congress,
 asking for the
 location of a
 land office in
 the sioux val-
 ley.

WHEREAS, The extensive and fertile valley of the Big Sioux
 river, in Dakota, has been entered from Minnesota, by the
 Winona & St. Peters railroad, and will be also entered by the
 Dakota & Hastings railroad early in 1873, and in conse-
 quence of their increased facilities, immigration will pour
 into this valley; and

WHEREAS, The distance of this section of country from any
 United States Land Office, in this Territory, is so great, that
 heavy burdens of expense and great loss of time are imposed
 upon the settler, causing him to travel from seventy-five to
 one hundred and fifty miles to reach the land office in which
 said lands are located; now therefore,

Your memorialists, the Legislative Assembly of the Terri-
 tory of Dakota, respectfully ask for the creation of a new
 land district, with the land office located in the Sioux valley.

Your memorialists would respectfully request that the open-
 ing up of this section of country by the railroads aforesaid,
 together with the creditable efforts now being made by the
 Territory of Dakota, to induce immigration to her fertile val-
 leys, will insure the speedy settlement of this section, known
 to possess a rich soil, and to be well supplied with timber and
 water.

We therefore pray your honorable body, to locate a United States Land Office, at the place herein designated, and as in duty bound, your memorialists will ever pray.

Resolved. That a duly authenticated copy of this memorial be transmitted to Hon. M. K. Armstrong, our Delegate in Congress, and that he be requested to lay it before Congress at an early day.

Approved, January 10th, 1873.

NO. 38.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES, PRAYING FOR A GRANT OF LAND IN DAKOTA TERRITORY, TO AID IN THE CONSTRUCTION OF THE DAKOTA GRAND TRUNK RAILWAY.

To the Honorable, the Senate, and House of Representatives in Congress Assembled:

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully represent, that there has never been a grant of lands by Congress, to aid in the construction of any railroad or railroads in the Territory of Dakota, south of the forty-sixth parallel, the proposed boundary of Pembina Territory, while liberal donations have been made in aid of railroads in other States and Territories, thereby leading to their rapid settlement and development, and bringing into market and under productive tillage, lands which would otherwise have remained unoccupied and valueless.

Your memorialists would further represent, that the States around us have received the benefit of generous donations; the State of Iowa, by the aid of lands granted by Congress, having been able to construct nearly three thousand miles of

A memorial to the congress of the United States, praying for a grant of land in Dakota Territory, to aid in the construction of the Dakota Grand Trunk Railway

railroads, while the States of Nebraska and Kansas have received nearly as much more; that without this, it is clear that the railroads would not have been constructed, nor the States mentioned have held anything like the population they now possess. In the examples before us, it is obvious that the effect of lands granted for the purpose of encouraging the building of railroads is no detriment to a prairie country; but on the contrary, it is the only method that will induce capitalists to invest in our far western roads, and give us thereby that communication with the markets, pineries and manufactories of the East, which must be established before the thousands of acres of prairie land, hitherto of no value to the Government, can be completely within the reach of the honest and hardy pioneers of the great northwest.

Your memorialists would further represent, that the Dakota Grand Trunk Railway, to which the right of way was granted by Congress at its last session, would, if constructed upon the lines proposed, open up to settlement many square miles of tillable prairie land in the Territory of Dakota, which must, without this, remain vacant and unoccupied for many years to come; and we most respectfully urge that a liberal grant of land, in alternate sections, of the unoccupied lands on each side of the Dakota Grand Trunk Railway, be made by your honorable body, with a provision that the lands so granted shall be sold only to actual settlers, at a price not exceeding two dollars and a half per acre.

And your memorialists will, as in duty bound, forever pray.

Approved, January 4th, 1873.

NO. 39.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES FOR AN APPROPRIATION TO CONSTRUCT BRIDGES ACROSS THE BIG SIOUX RIVER, AT DIFFERENT POINTS: ONE AT RICHLAND, UNION COUNTY; ONE AT CANTON, LINCOLN COUNTY, AND ONE AT SIOUX FALLS, MINNEHABA COUNTY.

To the Honorable, the Senate, and House of Representatives of the United States in Congress Assembled :

Your memorialists, the Legislative Assembly of the Territory of Dakota, respectfully ask that your honorable bodies will make an appropriation of such an amount as may be deemed sufficient for the construction of bridges over the Big Sioux river, at different points as above described.

The necessity of these improvements to our fast developing Territory, can be placed before your honorable bodies by our Delegate in Congress, Honorable M. K. Armstrong.

And your memorialists will, as in duty bound, ever pray.

Resolved, That our Delegate in Congress be requested to call the attention of the proper committees of Congress to the object of this memorial.

Approved, December 28th, 1872.

A memorial to the congress of the United States, for an appropriation to construct bridges across the Big Sioux river at different points: one at Richland, Union county; one at Canton, Lincoln county and one at Sioux Falls, Minnehaha Co.

NO. 40.

A MEMORIAL TO CONGRESS, PRAYING FOR AN APPROPRIATION TO CONSTRUCT A MILITARY WAGON ROAD IN THE VALLEY OF THE RED RIVER OF THE NORTH..

To the Honorable Senate and House of Representatives of the United States in Congress Assembled :

Your memorialists, the Legislative Assembly of the Territory of Dakota, would most respectfully represent, that the construction of a military wagon road, from Breckenridge

A memorial to congress praying for an appropriation

to construct a
military wagon
road in the val-
ley of the Red
River of the
North.

and Chahinkapa, down the valley of the Red River of the North, via Fort Abercrombie, Fargo and Grand Forks, to Fort Pembina and the international boundary line, a distance of about two hundred miles, would be of vast benefit to the Federal Government in the transportation of military supplies, &c., and at the same time promote the interests of that valuable portion of our Territory, by opening to settlement and cultivation a vast agricultural district, and thus, by the increased value of the public lands, contribute largely toward refunding to the national treasury any expenditure in constructing such road.

That according to the official reports of the collector of customs at the port of Pembina, merchandise passing over said route annually, is inspected at said port, amounting to hundreds of thousands of dollars, from which the United States derives a large revenue, amounting annually to perhaps \$50,000, besides the supplies for the settlements on the American side of the boundary.

A large portion of the supplies for the Province of Manitoba, with a population of over thirty thousand, as well as the vast supplies for the Hudson Bay Company, and the numerous fur traders, pass over said route, as do also the large returns of furs, &c., from the far northwest.

That the United States mails for all that vast district of country, as also the Canadian mails for Manitoba and the northwest Territory, (carried by the United States Government) must necessarily pass over said route, which, owing to the difficulty of crossing the several streams on the route, are often delayed for days, and even weeks.

That owing to the difficulties of the route known as the "Dawson Route," from the lakes to Fort Garry, through Canadian territory, nearly the entire Canadian immigration, to the Province of Manitoba, and the northwest Territory, amounting in 1872, to over five thousand, passes over the American route above mentioned.

That the great thoroughfare between Fort Abercrombie, Fort Pembina, and the United States boundary crosses some ten streams, varying in width from fifty to two hundred feet, over which the freighters and immigrants have annually to throw, at considerable expense and great loss of time, tem-

porary bridges, which are carried off by the first freshet, and hence each stream is so bridged several times during the same season.

That the entire route passes over a level valley, and in as much as nature has provided an excellent road, no farther appropriation is needed than will be sufficient to survey and mark the line, and to bridge the several streams.

Your memorialists, therefore, do most earnestly pray, that an appropriation of twenty-five thousand dollars, be made, or such sum as you in your wisdom may deem sufficient for the objects mentioned.

And, as in duty bound, your memorialists will ever pray.
Approved, January 6th, 1873.

NO. 41.

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES,
PRAYING FOR AN APPROPRIATION TO AID IN ESTABLISHING
AND CONSTRUCTING A WAGON ROAD FROM ROCKPORT, IN
HANSON COUNTY, DAKOTA TERRITORY, TO JAMESTOWN, ON
THE NORTHERN PACIFIC RAILROAD, DAKOTA TERRITORY.

*To the Honorable Senate, and House of Representatives in
Congress Assembled:*

Your memorialists, the Legislative Assembly of the Territory of Dakota, in tenth session convened, would respectfully represent to the Congress of the United States, as follows:

That the valley of the Dakota river is fast becoming peopled by industrious and energetic farmers, and that settlement is made, both at the point where the Northern Pacific railroad crosses said river, and also northwest from its mouth

A memorial to the congress of the United States, praying for an appropriation to aid in establishing and constructing a wagon road Rockport, in Hanson Co., D. T., to Jame-

town, on the N. P. R. R., Dakota Territory. for a distance of one hundred miles. That there is no communication between the settlements whatever, and that the interest of the people of this Territory would be greatly enhanced by the construction of a wagon road from Rockport, in Hanson county, to Jamestown, on the Northern Pacific railroad, and that at present there is no direct wagon road from the settlements on the Missouri river, to the Northern Pacific railroad, and it is the most direct and feasible route from our Capital, to said railroad.

And your memorialists would further represent, that government lands lying along and near said road, for a distance of one hundred and eighty miles, will be quickly disposed of to the advantage of the general government, and that government lands would be sufficiently enhanced in value, to refund to the national treasury any expense it might be at, in constructing said road.

And your memorialists, would therefore earnestly pray that an appropriation of fifteen thousand dollars, (\$15,000) or as much as may be deemed sufficient, by your honorable bodies, may be made to establish and construct said road.

And your memorialists, as in duty bound, will ever pray.
Approved. January 9th. 1873.

NO. 42.

A MEMORIAL TO CONGRESS, ASKING FOR THE DIVISION OF THE PRESENT TERRITORY OF DAKOTA, AND THE ERECTION OF AN ADDITIONAL TERRITORIAL ORGANIZATION OUT OF THE NORTHERN PART OF THE SAME.

To the Honorable the Senate and House of Representatives of the United States in Congress Assembled :

A memorial to congress asking for the division of the territory of Dakota, most respectfully pray, that the present Territory of Dakota may be divided, and a new Territorial or-

ganization made out of the northern part thereof, and a government and officers provided for the same.

We respectfully pray that the boundaries of the new Territory may be the same as for the northern boundary for Dakota, and the eastern and western boundaries of the same, as far south as the dividing line as hereafter given; that the dividing line be as follows, to-wit: Commencing at the point in the eastern boundary of the Territory of Dakota, near the northern end of Lake Traverse, where the seventh standard parallel, as surveyed and established within and for the survey of the Wappeton and Sisseton Indian Reservations, closes on said boundary; thence west along said seventh standard parallel, within said reservation, to the western boundary of said reservation; thence north $12^{\circ} 62'$ west, along said reservation boundary to the closing corner of the seventh standard parallel of the regular United States public land surveys; thence west along said seventh standard parallel to the Missouri river; thence up the channel of the Missouri river to the forty-sixth parallel of north latitude; thence west along the 46th parallel to the western boundary of the Territory of Dakota.

present Territory of Dakota, and the erection of an additional territorial organization out of the northern part of the same.

We further represent that this particular line of division is asked in order to accommodate the settlements already made in the Territory, leaving all those north of the Wappeton and Sisseton Reservations in the new Territory, and all south of the same in the Territory of Dakota; also because a base line for the public surveys were used as a boundary line prevents the fractional division of surveys, which would be rendered necessary if an artificial line was named; and because the line herein described is already surveyed, marked and established for a considerable distance from the eastern boundary, and will be established hereafter in the prosecution of the public surveys without additional expense for surveying it as a boundary.

We further respectfully represent, that we believe the public interests alike of the United States, and this Territory now demands this division, and that the convenience and economy of the citizens of both parts favor this division. There are no interests in common between the two parts: communication is slow and difficult. While east and west railroads are being constructed in both divisions, no north and south lines

can be expected soon. The trade, commerce and enterprise, the markets and communications of each part are distinct and separate. Differing motives and interests govern the citizens of each part; and it is hardly practicable to represent and promote the best good of both parts in the same Territorial Legislature, or under the same Territorial government. In all matters of local enterprise, the encouragement of immigration and the settlement of the country, the best good and largest results can only be attained through separate organization. An examination of the map will exhibit these reasons more effectively.

We also respectfully refer to the present rapidly increasing development of the two sections. Immigration is now being greatly encouraged to both parts by every inducement. The last election showed a large vote in the northern part. Causes now actively operating will rapidly augment all these reasons for division. The area of the present Territory is over 150,000 square miles. The diversity of interests and wide separation of the different parts forbid the hope that a proper development can be attained as at present organized.

For these and other reasons, your memorialists earnestly ask the division to be authorized by an early law.

And, as in duty bound, your memorialists will ever pray.

Approved, December 31st, 1872.

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