



1969

Guide to the Microfilm Edition of the Dakota Territorial Records

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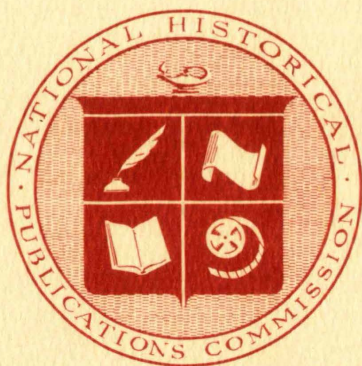
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Guide to the Microfilm Edition of
The Dakota Territorial Records

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COVER: SEAL OF DAKOTA TERRITORY

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Introduction

Unfortunately, the state governments of North and South Dakota have no archival program. Both historical societies remain traditional depositories of historical material. Both Secretaries of State remain the legal keepers of records. But neither state by law or appropriation has been able to inaugurate archival programs.

In the summer of 1966, the Orin G. Libby Manuscript Department of the University of North Dakota, Grand Forks, North Dakota, began the first active program to preserve manuscripts in the two states. The logical place to begin was the oldest records of heritage—Dakota Territory, 1861-1889. In the spring of 1967, the search for territorial records in North and South Dakota began.

Fortunately, the interest of those in the states coincided with encouragement and interest from a national office. In 1967 Dr. Oliver Wendell Holmes, Executive Secretary of the National Historical Publications Commission, proposed "that each state that was once a territory make a survey and inventory of records created by officials of its territorial government."¹ This mutual concern resulted in a National Historical Publications Commission grant to the University of North Dakota to locate, arrange, and microfilm the records of Dakota Territory, 1861-1889.

Cooperation from many offices brought success to the entire project. Senator Milton R. Young, U. S. Senator from North Dakota, and Dr. Robert H. Bahmer, former Archivist of the United States, offered assistance and advice in the early stages of the project. The continuous advice of Dr. Holmes and Mr. Fred Shelley of the National Historical Publications Commission throughout the past one and one-half years has greatly aided an inexperienced project director and staff.

Although a professional archival program awaits birth in the Dakotas, individual interest among the various state agencies to preserve records of historical value has always existed. In fact, only through the interest of these agencies has anything been saved, and only through their cooperation has the project been a success. A complete list is impossible. In particular, however, Mr. Ray Mattison, Superintendent of the State Historical Society of North Dakota, Mr. Dayton Canaday, Director of the South Dakota State Historical Society, the Secretaries of State for North and South Dakota, Mr. Ben Meier and Miss Alma Larson, respectively, and Chief Justice Obert C. Teigen of the North Dakota Supreme Court graciously cooperated in the project. The talent, experience, and interest of two longtime North Dakota state employees, Mr. Walter Mohn of the Office of the Secretary of State and the late Henry Newton, Clerk of the Supreme Court, helped locate many territorial records.

The cooperation of Yale University made possible the microfilming of a more complete set of the Andrew J. Faulk Papers. This xeroxed

¹Oliver W. Holmes, "Territorial Government and the Records of Its Administration," in *The Frontier Re-examined*, ed. John Francis McDermott (Urbana: University of Illinois Press, 1967), 97-109.

collection adds over 2,000 letters to the early territorial period. Yale University's generosity has greatly enhanced the quality of the microfilm edition.

In a day in which the newspaper diet is one of student protest and violence, it has been a rewarding experience to have worked with students who are genuinely interested in the preservation of history. Kathy Johnson, Mrs. Pat Kulzer, and Janet Riveland provided typing and arranging. Elaine Weber and John Dibbern served as manuscript preparers. W. Michael Evangelist deserves recognition for processing and arrangement. His avid interest, perseverance, and patience contributed greatly to the quality of the microfilm edition.

In conclusion, the role of the archivist and the historian should be a joint undertaking. The addition to the Guide of a scholarly survey of Dakota Territory and a bibliography clearly illustrates this point. Special thanks is given to Dr. D. Jerome Tweton, Chairman of the Department of History, for those sections of the Guide and for his overall advice as consulting editor.

—DANIEL RYLANCE
Editor

University of North Dakota
Grand Forks
August, 1969

Provenance

On February 22, 1889, an Act of Congress provided for the division of Dakota Territory into the states of North and South Dakota. Section 6 of the Act declared that "an equitable division" should be made between the two states of all territorial property. To implement the Act a joint commission of fourteen members, seven from each state's constitutional convention, met at the territorial capitol in Bismarck from July 16, 1889, to July 31, 1889.

On July 24 the commission accepted a report by a two-man committee on the disposition of official records. The report suggested certain records should be transcribed, others were to be distributed according to locality, and the remainder divided by lot. Two problems, however, postponed acting upon this decision. First, all records had to remain in Bismarck until certain ones had been transcribed. Second, South Dakota had no capitol and, thus, no adequate facility to store records. The commission, therefore, agreed to the following:

This Commission shall agree upon a division of all records, papers, files and books not already provided to be copied, in manner following, to-wit: All records and files pertaining exclusively to institutions in South Dakota shall be the property of South Dakota, and all records and files pertaining exclusively to institutions in North Dakota shall be the property of North Dakota. All other records, etc., not provided to be copied or divided as above shall be divided and grouped into two lots, as nearly of equal importance and value as possible, but so that the records of no office shall be divided by such grouping. Each State to have one of such two groups, to be determined by lot by this Commission. All records shall remain at the Capitol of North Dakota. South Dakota may at any time take possession of such of the records, files, etc., as under this agreement becomes the property of South Dakota, giving North Dakota reasonable time to make copies or abstracts thereof. If either State requires copies or abstracts of the records which under this agreement go to the other State, the expense thereof shall be born equally by the two States. It shall also be determined by lot which State shall take the originals and which the copies of such records as are arranged by this Commission to be copied.¹

Pressed for time, the commission hurriedly attempted to arrive at a final decision on those records to be chosen by lot. The commission divided these records into two groups: the records of the governors and secretaries comprised the first group; the second group consisted of the records of all other public offices. North Dakota drew its own name from the hat and selected the first group.

The commission concluded its business and its decision became law. Our search, in 1968, for territorial records disclosed, however, that the decision of the Joint Commission was imperfectly enforced. Only "Incorporation Records" and "Railroad Deeds and Mortgages" were actually transcribed. The "Records of the Territorial Supreme Court" probably

¹"Journal of the Proceedings of the Joint Commission" in *Official Report of the Proceedings and Debates of the First Constitutional Convention of North Dakota* (Bismarck, 1889), p. 667, quoted by Margaret Rose, "The Archives of Dakota Territory," *American Archivist*, XXVI (July, 1963), 312-313.

were divided. All original territorial court cases relating geographically to the state of North Dakota were found in the vault of the North Dakota Supreme Court. In addition, a Minute Book of the Court was located in the Law Library. Unfortunately, the original territorial court cases relating geographically to South Dakota were not found, although a docket journal was discovered in the office of the South Dakota Supreme Court.

Thus the decision of the Joint Commission, except in the two above mentioned instances, was never carried out. Whatever the reasons, the vast majority of territorial records remained in Bismarck. The territorial capitol, of course, became the North Dakota State Capitol in the fall of 1889. Wings were added to this building in 1894 and 1904. After 1904 several attempts to obtain legislation for a new state capitol failed. Finally, in 1924, a compromise resulted in the construction of the Liberty Memorial Building, east of the capitol building, to house the Supreme Court and the Historical Society. Many territorial records were then transferred to the Historical Society.

On Sunday morning, December 28, 1930, fire completely destroyed the state capitol building in Bismarck. Insurance reports found the cause of fire to be "spontaneous combustion of oily rags in the janitor's room." Newspaper accounts of the fire gave contradictory reports on the amount of records destroyed. Nor do insurance reports give adequate descriptions of the destroyed documents. We have found that, except for the records of the Attorney General's office and the Treasurer's office, no other significant group of territorial records seems to have been destroyed. Fire proof vaults in the capitol and prior transference to the State Historical Society saved the remainder, although premature opening of the Secretary of State's vaults caused some damage to the records inside.



Workers attempt to save official records as North Dakota capitol burns in 1930.

From 1930 until the winter of 1968 the records of Dakota Territory remained with the Historical Society and four state agencies: the Secretary of State, the Department of Public Instruction, the Auditor, and the Supreme Court. No attempt was made to process, arrange, or preserve these historical records until 1968 when this National Historical Publications Commission grant began.

The largest share of the records was stored in the basement of the Historical Society. The Secretary of State's vault contained original legislative bills, incorporation papers, railroad mortgages and deeds, and some contest cases involving members of the territorial legislature. The Department of Public Instruction vault held bound ledgers of reports, while the Auditor's vault contained two bound ledgers. The territorial court cases originating in what is now North Dakota were found in the vault of the North Dakota Supreme Court.

The physical condition of these papers presented a serious problem for processing and microfilming. Except for bound ledgers and letterpress volumes, most Territorial documents were either folded or rolled. The first year of this project was devoted almost entirely to flattening and repairing these documents.

At first the original order of the records seemed lost. But after preliminary sorting it became apparent that each document had its file number penciled onto it. This consisted of the letter "f" followed by a number. A check of the old territorial file drawers in the Historical Society revealed that these numbers were indeed the original filing system. File number "f-1" indicated the first governor—William Jayne—, and the numbers continued on to later governors and then lesser offices. Since no one had worked on these records, this original order could be restored.

Because North Dakota has no law assigning legal custody for the preservation of historical records, this collection must once again be divided and returned to individual state agencies. A meeting held in the office of William L. Guy, Governor of North Dakota, on August 7, 1969, resulted in a proposal for legislation to transfer all territorial records to the State Historical Society of North Dakota. In the meantime, through the assistance of the National Historical Publication Commission, the existing records of Dakota Territory have been located, arranged, and microfilmed.

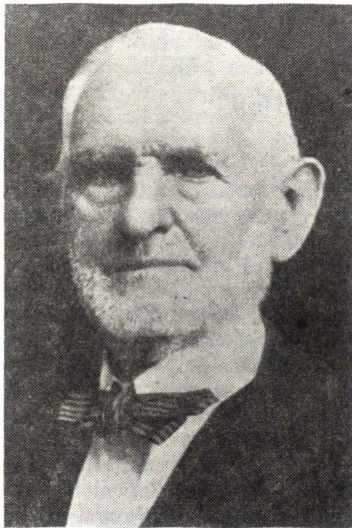
The Territorial System and The Territory of Dakota

When Congress created the Territory of Dakota in 1861, the affairs of the territories were handled by the Department of State. Since the Ordinance of 1787 the Department had carried on this task, but not until 1836 was a "Territorial Bureau" established within the Department. In 1870 departmental reorganization recognized a fourth class clerk as the one in Washington most concerned with territorial business. Appointments, applications, territorial grievances, and leaves of absence were handled at this desk. The Department of State maintained primary contact with territorial governors and secretaries. The Secretary of State served as the intermediary for specific business with Congress, the President, or the Treasury Department. For example, the Attorney General would render an opinion for the Territory only when requested to do so by the Secretary of State. Major disturbances were reported to the War Department. The Treasury Department controlled all financial matters.¹ Earl Pomeroy, the foremost authority on the territorial system, concludes that "they administered the system from day to day—sparing only a modicum of attention from business of different and more pressing import."²

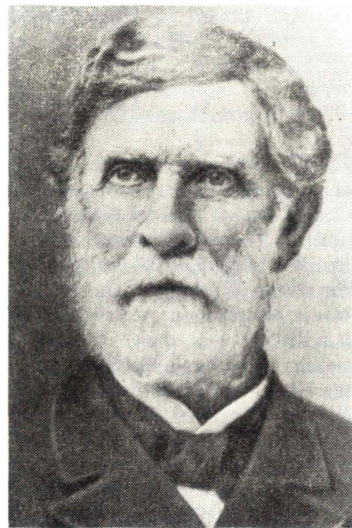
In March of 1873 the Department of State turned over the conduct of territorial affairs to the Department of the Interior. The Secretary of the Interior had some official connection with the territories since most governors were ex officio superintendents of Indian affairs. By its nature, the Department of the Interior seemed more suited to conduct territorial affairs. Although charges or grievances against officials were occasionally investigated by the Department of the Interior, supervision of the territories remained much the same as during the years when they were controlled by the Department of State. The publication of annual governor's reports after 1878 perhaps informed more people—Washington officials and the public—about the territories, but, generally, the Department gave little guidance or advice to the territories. The Attorney General avoided all intra-territorial questions, while the War Department entered into territorial matters only in emergencies. The Treasury Department continued its firm control over financial affairs, totally independent of the Department of the Interior. Although the Secretary of the Interior had more control over the territories than any other Washington official, he did not attempt to solidify this control

¹Much of the material for this essay came from Earl S. Pomeroy, *The Territories and the United States, 1861-1890, Studies in Colonial Administration* (Philadelphia: University of Pennsylvania Press, 1947); Howard Lamar, *Dakota Territory, 1861-1889: A Study of Frontier Politics* (New Haven: Yale University Press, 1956); Herbert Schell, *History of South Dakota* (Lincoln: University of Nebraska Press, 1961); and Kenneth Owens, "Frontier Governors: A Study in Frontier Executives in the History of Washington, Idaho, Montana, Wyoming and Dakota Territory" (Ph.D. Dissertation, University of Minnesota, 1959).

²Pomeroy, 14.



GOV. WILLIAM JAYNE



GOV. NEWTON EDMUNDS

or systemize the administration of the territories. "Salutary neglect" describes the attitudes of both the Departments of State and Interior toward the territories.

The executive power of Dakota Territory resided in the governor who held office for a term of four years at an annual salary of \$3,000. A presidential appointee, the governor could be removed at any time. He also served as commander-in-chief of the militia and, until 1871, as superintendent of Indian affairs. He held veto power which could be overridden by a two-thirds vote of the legislature. It was the governor's responsibility to take the original census, set up legislative districts, and call the first election. With the advice and consent of the legislature, the governor also controlled the appointment of territorial officials such as auditors, treasurers, and superintendents of public instruction.

Because of indifference to territorial matters in both the Departments of State and Interior, governors were allowed to govern largely as they pleased. Usually, when the governor sought advice from Washington, he was instructed to consult the Organic Act and proceed as he saw fit. A kind of territorial autonomy developed as a result of confused jurisdiction and administrative inertia. The governor conducted the affairs of state, restrained only by stubborn legislatures, politically aggressive territorial delegates and secretaries, or public opinion.

The contention that governors in the territorial west were no more than "carpetbaggers"—easterners who through political pull or political debt gained presidential appointment—generally describes the Dakota situation. All but one governor came to Dakota as a political appointment. William Jayne (1861-1863), Andrew J. Faulk (1866-1869), John A. Burbank (1869-1873), John L. Pennington (1874-1878), William

A. Howard (1878-1880), Nehemiah Ordway (1880-1884), and Gilbert Pierce (1884-1886) came directly to the territory as appointees to the governorship. Newton Edmunds (1863-1866) had come to Dakota in 1861 as chief clerk in the surveyor general's office, while Louis K. Church (1887-1889) had been appointed to the court in 1885. Only Arthur C. Mellette (1889), who practiced law in Watertown, Dakota, was appointed directly from the Territory.

Political pull or debt brought most of the appointments. Jayne was Lincoln's family physician and campaign manager in Illinois as well as the brother-in-law of Senator Lyman Trumbull of Illinois; Faulk was Territorial Delegate Walter A. Burleigh's brother-in-law, while Burbank was the brother-in-law of Senator O. P. Morton. President Hayes appointed Howard largely because the latter had been instrumental in switching the Michigan delegation's support to Hayes in the Republican Convention of 1876. Ordway, Pennington, and Church were faithful party workers in their respective states of Vermont, North Carolina, and New York. Only Edmunds and Mellette, who were both in the Territory prior to appointment, could be regarded as non-carpetbaggers.

The governors of Dakota brought a variety of experience to the Territory. Three were newspaper men: Faulk, editor of a small town Pennsylvania paper; Pennington, associated with several papers in North Carolina; and Pierce, who worked with the *Chicago Inier-Ocean*. Of the newspaper men only Pennington seems to have dabbled in politics. Church and Mellette were practicing attorneys in New York City and Dakota Territory respectively. Jayne was a physician although he had been mayor of Springfield and a member of the Illinois State Senate. Edmunds, of course, had been in Dakota with the surveyor general's office. Only Burbank, Howard and Ordway could be classified as professional politicians.

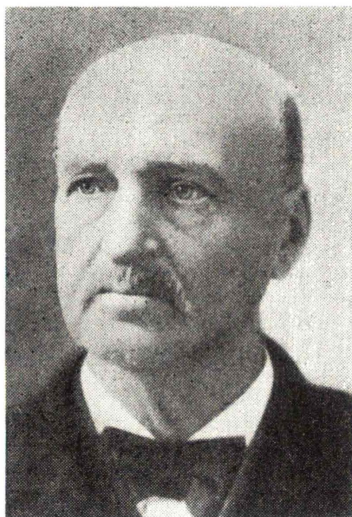
With possibly two exceptions, the governors of Dakota were not exploiters of the Territory; their training was generally adequate for the office they held. Considering the difficulties of a frontier experience, they did a job much better than could have been expected. Significantly, only three of Dakota's governors left the Territory upon the conclusion of their tenure of office—Jayne, Burbank, and Ordway. Edmunds remained in Yankton and served on the territorial council, while Faulk became Mayor of Yankton and clerk of district court. Pennington established a newspaper in Yankton, the *Weekly Telegram*, and served as Collector of Internal Revenue. He did not leave South Dakota until 1891, after the death of his wife. North Dakotans elected Pierce to the United States Senate, and after that term he returned to newspaper work in Minneapolis and Chicago. Church remained to practice law in Huron, and Mellette, after serving two terms as Governor of South Dakota, returned to his practice in Watertown. Although all but two could be classified as carpetbag appointments, most made a genuine contribution to the development of the territory after the governorship.

The governors were of different capabilities and motivations. Some were successful; some failed. Most were qualified; some were not. A review of two governors serves to illustrate this.

In support of the nomination of Newton Edmunds for the Dakota



GOV. ANDREW J. FAULK



GOV. JOHN BURBANK

governorship, former Governor Jayne wrote to President Lincoln that "he is just the man for governor in a territory filled to a very considerable extent with a turbulent and disloyal population."³ In what was one of Dakota's "least political" appointments, Lincoln gave the governorship to a man who knew the spirit of the frontier. Edmunds serves as an example of the governor who took his charge seriously and who also paid a great deal of attention to his position as Superintendent of Indian Affairs. In the latter capacity he initiated a movement for peace among the Sioux in the Missouri River Valley. He believed that peaceful relations could be gained without the extensive military intervention that the Army contemplated. Lincoln responded to his idea and obtained a \$20,000 congressional appropriation for a peace mission. Although the military violently opposed this approach, and for some time delayed it, President Johnson in 1865 set up a commission headed by Governor Edmunds to bring the Indian question to a peaceful solution. Although the tribes pledged themselves to peace in treaties negotiated by Edmunds in 1866, the treaties failed to bring lasting peace to the plains. He succeeded in stabilizing the lands along the Missouri, and his work foreshadowed the more successful Laramie Treaty of 1868. Although Edmunds was removed by Democrat Andrew Johnson, he typified a frontier territorial governor who was concerned with the people and the Territory. One Dakota group testified to this when it wrote that he had "stood manfully by us as a people through all our Indian difficulties, when most of the federal officers deserted the Territory."⁴

³William Jayne to Abraham Lincoln, September 16, 1863, Edmunds Appointment File, State Department, quoted in Owens, 81.

⁴G. N. Proper, *et. al.* to Lincoln, undated, Edmunds Appointment File, State Department, quoted in Owens, 84.

In contrast to the governorship of Edmunds was that of John Burbank who came in with the Grant administration in 1869. He was reappointed in 1873, but within a year he was requested to resign by the Secretary of the Interior. Burbank had been promised the governorship of Wyoming, but when Grant gave this political plum to General Cambell, Dakota went to Burbank. He spent almost no time in the Territory during the first year and in 1870 campaigned in Nebraska and Indiana for the Republican ticket. Burbank disdained the political activities in Dakota. He, however, entered fully into the ambitious plans of railroad promoters and land speculators. When the Secretary of State disapproved a Yankton County bond issue to support the Dakota Southern Railroad, promoted by a pro-Burbank group, the Governor went to Washington and spent the entire winter and spring of 1871 lobbying for congressional approval of the county bond issue. He received an additional charter and a land grant for a "grand trunk" to connect Yankton to the Northern Pacific Railroad. As a reward for his efforts, he was made a director of the railroad.

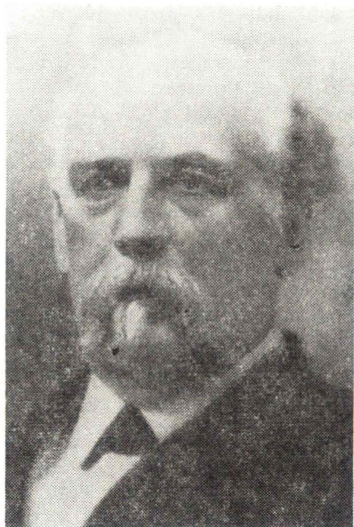
Shortly after his reappointment, a hotly contested court suit began between the directors of the railroad and Yankton County. Burbank attempted to bribe a judge who reported the incident to the Secretary of the Interior. Shortly thereafter the Secretary of the Territory, Edwin McCook, was murdered by an anti-Burbank Yankton banker. As a result of these incidents Burbank resigned at the request of the Secretary.

Burbank and Edmunds represent the two extremes of the Dakota governors. Edmunds was dedicated and concerned; Burbank was indifferent to the Territory and sought to further his own interests through his appointment.

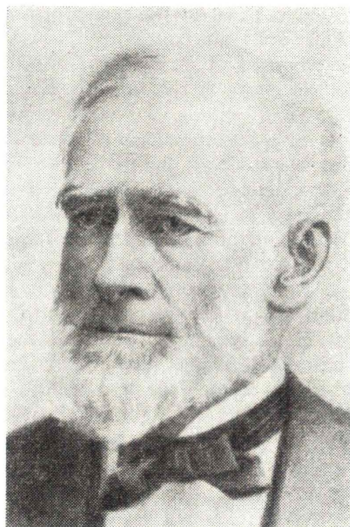
The territorial secretaryship was the other key position in the executive branch of the government. The territorial secretary was appointed by the President for a term of four years. In the case of the death, removal, or absence from the Territory of the governor, the secretary served as acting governor with all the powers and responsibilities of the governor. The secretary was the recorder and preserver of the laws and proceedings of the legislature as well as the recorder for the governor's office. Twice each year he reported to the President on territorial affairs. After 1874 the secretary was given the task of furnishing a detailed estimate of territorial expenses to the Secretary of the Treasury. In addition to an annual salary of \$2,500, the secretary also collected fees for official duties that were imposed upon him by the legislature but were not provided for in the Organic Act.

He also made recommendations concerning legislative compensation and mileage as well as the governor's contingent expenses. The secretary controlled printing contracts and usually used these to further the party's or his own political interests. One former secretary feared that "the secretary holds more power in his hand than the Governor. . . . In wielding the public printing, he can make and unmake men at pleasure."⁵ Whether this fear became reality is difficult to determine. The secretary's office was a desired political position. Dakota's first territorial

⁵William B. Daniels to Secretary Seward, November 27, 1865, State Appointment File, quoted in Pomeroy, 32.



GOV. JOHN L. PENNINGTON



GOV. WILLIAM A. HOWARD

secretary, John Hutchinson, sought a position as secretary and through the influence of Secretary of State Seward received the Dakota appointment. A Minnesota lawyer, he had been active in Kansas politics where he had been Speaker of the House of Representatives. He attempted to use the secretary's office as a political springboard, hoping to replace Governor Jayne after the Governor resigned. After four years as secretary, however, he became disgusted with Dakota politics, resigned and left the Territory. No Dakota secretary was ever appointed governor, but Solomon Spink, secretary from 1865 to 1869, used the secretaryship to consolidate his political power and was elected as Republican Territorial Delegate in 1868. Dakotans boomed the gubernatorial candidacy of Secretary George Hand, who served in that position from 1874 to 1883, with no success.

Secretaries were quite free to use the governor's powers when the governor was out of the Territory. In 1871 Secretary George Batchelder called an emergency session of the legislature for the purpose of authorizing a county bond issue in Yankton County to support the promotion of the Dakota Southern Railroad. Later in 1873, when Governor Burbank was on leave, Secretary Oscar Whitney attempted to shuffle the appointments of district judges for personal reasons.

The Organic Act provided for a judicial system headed by three justices who were presidential appointees for a period of four years. The three made up the supreme court; individually, each acted as a district judge. The court had jurisdiction over cases arising under both United States and territorial law. Territorial court cases which were appealed went directly to the United States Supreme Court. The Attorney General carried out the administrative relations with territorial judges—

receiving applications, transmitting commissions, and administering leaves.

Because of population growth and increased legal questions, after 1879 Congress increased the number of territorial judges. In that year congressional action allowed three associate judges in addition to the chief justice; by 1884 there were five associates, and in 1888 seven associates. Because of the additional appointments, no judge was forced to sit in appeal on cases he had dealt with in district court. A court with few judges—especially before 1884—for a territory the size of Dakota led to legal handicaps for those in the outlying areas of the territory as well as to the mishandling of appeals. District courts were often inadequate because of remoteness; county courts also tended to be inadequate because of the great amount of time required by judges to travel from location to location. On all levels of the judicial system, Dakota dockets were so crowded by 1888 that the court was many months behind in its work. One territorial delegate described the judicial system:

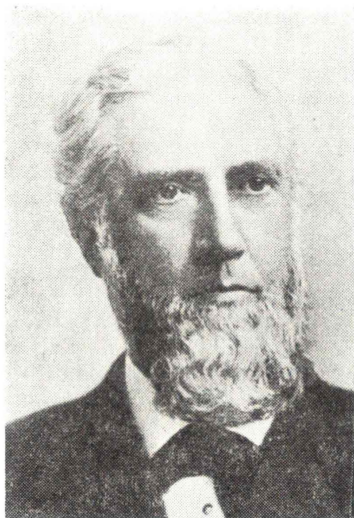
While all parts of the territorial system are objectionable, there is no part . . . so hateful as the judicial part of it. . . . The men who have been appointed as our judges have only too often either been broken-down politicians or men without capacity or integrity. . . . The judges, when appointed, have no independence. They are subject to removal by political influence, and threats of this sort of pressure is often brought against them to determine their judgment in cases before them. When their terms expire they are reappointed or removed by the same sort of political influence that procured the original appointment.⁶

It is difficult to determine the integrity or capability of the Dakota court. Historian of Dakota Herbert Schell contends that early territorial judges "rarely represented the best in legal talent."⁷ That its judges were subject to political influence and pressure or even threats is documented in the history of the judicial system in Dakota. For example, in a bitterly contested suit in 1883 between the directors of the Dakota Southern Railroad and Yankton County, where bonds had secured the construction of the railroad, District Judge Alanson Barnes (1873-1881) granted an injunction against the directors' stock redistribution. Governor John Burbank, who was a director of the railroad, threatened the judge with removal and demanded that the case be thrown out of court. Judge Barnes refused to comply with the Governor's wishes and reported the incident to the Secretary of the Interior.

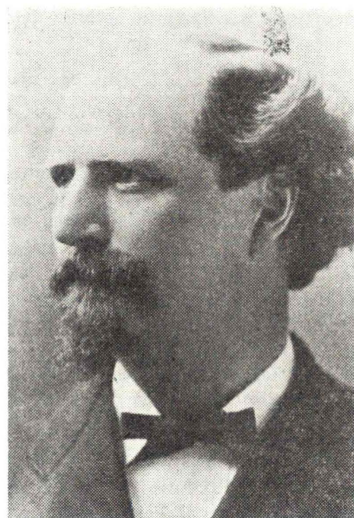
Shortly thereafter, the Secretary of the Territory, Edwin McCook was murdered by an anti-Burbank Yankton banker. President Grant appointed McCook's father-in-law, Oscar Whitney, to the secretaryship. While Burbank was out of the Territory, Whitney, in his role as "Acting Governor," removed Barnes to another district and brought to Yankton a judge who Whitney believed would be more favorable to the administration, and, therefore, more inclined to bring full punishment against his son-in-law's murderer. Protesting this violation of judicial immunity, Judge Barnes wrote to Washington: "Must courts and judges shape

⁶*Congressional Record*, 48th Congress, 1st Session, 2778.

⁷Schell, 100.



GOV. N. G. ORDWAY



GOV. GILBERT A. PIERCE

their opinions and views of the law to suit governors and secretaries and be thus humiliated and disgraced?"⁸

Later in 1883 a commission was created by the legislature to select a new territorial capitol. Headed by Alexander McKenzie of Bismarck, the commission, after reviewing the bids of several cities, selected Bismarck as the new capitol of Dakota. Residents living in southern Dakota attempted to stop the action on a writ of *quo warranto*. Governor Nehemiah Orway (1880-1884), who owned real estate in Bismarck, however, ordered the removal of territorial offices and officers before the district judge could rule on the writ of *quo warranto*. When the court upheld the writ, the secretary and treasurer refused to move. While the appeal was pending before the Territorial Supreme Court, one of the justices died. Ordway worked feverishly to secure his own selection as justice in an attempt to gain a favorable court decision. A longtime political friend from Vermont, Cornelius Palmer, was selected for the Dakota court and he cast the deciding vote reversing the court's decision—thus allowing the capitol removal.

These two examples give positive evidence to the allegation that the territorial judicial system was subject to political influence and the judges were subject to personal threat. While Burbank threatened Barnes in an attempt to gain a favorable decision, Ordway used his influence to shape court decisions through appointment. Both incidents support Earl Pomeroy's conclusion that "the judicial system is one of the weakest parts of the territorial system."⁹

Only the territorial delegate and the legislature were elected directly

⁸Judge A. H. Barnes to the Secretary of the Interior, December 2, 1873, Appointment File 135, Interior Department, quoted in Owens, 143.

⁹Pomeroy, 61.

by the people of the Territory. The Ordinance of 1787 provided for a delegate to represent each territory in Congress with the right to debate, but not to vote. The territorial delegate served as the voice of the territory in Washington, acquiring most of a congressman's prestige and function. He served as an agent for territorial officials, the legislature, and the people. He became involved in questions of patronage and lobbied in behalf of the territory. It was Territorial Delegate Walter A. Burleigh whom Governor Edmunds requested to secure an order against official absenteeism when the constant absence of the United States District Attorney and federal judges rendered "entirely nugatory every effort to enforce laws or bring criminals to justice."¹⁰ Instead of appealing directly to the Department of State, whose position was apathetic, the Governor believed that the territorial delegate could find the quickest remedy to the problem.

The position of territorial delegate was a political plum in Dakota over which much political blood was spilled. To be a territorial delegate meant not only power in Washington but also power in the Territory. Most delegates attempted to use their position to build a permanent political base of control within the Territory. Dakota's first governor, William Jayne, Radical Republican, resigned the governorship in the fall of 1862 in an attempt to unseat Democratic Delegate J. S. B. Todd. Jayne was declared the winner by an election board which had not yet gathered all the votes. Todd contested the election and a year and a half later, the House of Representatives gave Jayne's seat to Todd. Evidently, Governor Jayne saw the position of territorial delegate as one more desirable than that of governor.

Contest for power in the territory often brought the delegate and the governor into political battle even though both might be in the same political party. Republican Territorial Delegate Burleigh, who had been Indian Agent for the Yanktons, and Governor Edmunds, who was ex officio Superintendent for Indian Affairs, had agreed to share contracts and Indian patronage. Burleigh, however, indicated in 1866 that he would support President Andrew Johnson and, shortly thereafter, began a campaign to remove Governor Edmunds on the grounds of conflict in the management of Indian affairs. Burleigh supported Andrew J. Faulk as the man to replace Edmunds. With the support of ex-Governor Jayne, other influential members of Congress, and the Secretary of the Interior, the President removed Edmunds and appointed Faulk. Burleigh had successfully used his power as territorial delegate to place his father-in-law in the governor's chair of the territory. Throughout Faulk's governorship (1866-1869), Burleigh held control of that office.

The Ordway-Pettigrew clash of the early 1880's serves as another example of the role of the territorial delegate. Richard Pettigrew, delegate from 1881-1883, contested Governor Ordway's claim to some federal patronage as "if it were his personal property and for his individual aggrandizement."¹¹ When in 1881 Congress appropriated \$30,000 for

¹⁰Newton Edmunds to Walter A. Burleigh, February 3, 1865, Papers of the Governors of Dakota, North Dakota State Historical Society, Bismarck.

¹¹Nehemiah Ordway to Secretary Teller, April 19, 1882, Appointment File 165, Interior Department, quoted in Owens, 238.



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a federal penitentiary, Ordway immediately asked the Secretary of the Interior for control of the appropriation. Although Pettigrew waged a bitter campaign for removal, Ordway completed his term in office. When the Republicans refused to nominate Pettigrew for a second time, he remained in the territory and led the opposition to the Governor and his policies.

As in the case of the territorial delegate, the people elected the legislature of the territory. The Organic Act vested legislative power in the hands of the governor and a legislative assembly consisting of a council and a house of representatives. Although the governor held the power of veto, the legislature could override his veto with a two-thirds vote.

Legislators were elected for a two year term. The original Dakota legislature had nine council members and twelve house members. During the second legislative session, 1862-1863, there were ten council and thirteen house members. From the third legislative session in 1863-1864 through the eighth in 1868-1869, thirteen council and twenty-four house members made up the legislature. From the ninth session in 1870-1871 through the sixteenth in 1885, council membership consisted of twelve or thirteen while the house ranged between twenty-four and twenty-six. For the seventeenth session, held in 1887, Congress increased membership to twenty-four for the council and forty-eight for the house of representatives. Before 1878 legislators received a salary of \$3.00 per day with a travel allowance of \$3.00 for each 20 miles traveled. In 1878 Congress raised the salary to \$4.00 per day with \$6.00 each for the speaker of the house and the president of the council.

The Dakota legislature met annually from 1862 to 1868, after that

biennially. From 1862 to 1880 legislative sessions lasted forty days; in 1880 this was increased to sixty. The Dakota legislature was characterized by a high percentage turnover of membership; 70 percent served only one term with 15 percent serving two terms. This represented 461 out of a total 519 membership, 1862-1889.

The Organic Act provided that the legislative power of the Territory "shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States." Congress specifically prohibited territorial legislatures from passing laws that would interfere with the "primary disposal of the soil," tax the property of the United States, tax the land and property of non-residents at a higher rate than residents, or impair the right of private property.

In 1886 Congress amended the Organic Act, enumerating cases in which the territorial legislature could not pass local or special laws. Representative of those were: granting divorces, locating and changing county seats, regulating county or township affairs, regulating the practices in courts of justice, chartering or licensing ferries or toll bridges, granting a corporation or individuals immunity or franchise, or changing or amending the charters of any town, city, or village.¹²

The Constitution of the United States, in Article IV, Section 3, made clear that "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." The Territory was the creature of Congress, and Congress claimed full authority over its creation. It could change the Organic Act by amendment as it saw fit. In 1880 the United States Supreme Court upheld the right of Congress to alter the legislation of the Dakota legislature. In 1872 Congress had passed a curative measure which altered Dakota legislation which had provided Yankton County support of the construction of a railroad with \$200,000 in bonds. Although the Territorial Supreme Court had upheld the letter of legislative action of the Territory, the United States Supreme Court reversed its decision.

It was clear from the Congress and court that the control of things territorial resided in Washington. It was equally clear, however, that Washington officials shunned the responsibility for developing an orderly and well-planned territorial system.

¹²For a complete list of the prohibitions, see Organic Act (as amended) in *Laws of Dakota, 1889* (Grand Forks: W. R. Bierly, Publisher, 1889), xxiii.

A Note on Dakota Published Primary Sources

The researcher who is interested in the history of Dakota Territory will find many opportunities open to him. Most facets of territorial life have been neglected by scholars—largely because of the inaccessibility of documents. This microfilm edition of unpublished territorial material opens new research possibilities.

There are bibliographical aids which the historian of Dakota Territory may find useful. Albert Allen's *Dakota Imprints, 1858-1889* (New York: R. R. Bowker Company, 1940) is the most complete list of available Dakota documents and their location. An article by W. Turrentine Jackson entitled "Dakota Territorial Papers in the Department of the Interior Archives," in the *North Dakota Historical Quarterly*, XI (July, 1944), evaluates and catalogues by administration the papers in the Department of Interior archives.

The microfilm edition of territorial documents is complemented by a variety of published source material. The *Reports of Cases Argued and Determined in the Supreme Court of the Territory of Dakota* (6 vol., 1867-1889) relate the actions of the territorial court. The *Dakota Constitutional Convention* (1885) contains the proposed constitution of 1883 as well as the proposed constitution and debates of 1885. The constitutional convention of 1889 for South Dakota is chronicled in *South Dakota Constitutional Convention* and for North Dakota may be found in *Journal of the Constitutional Convention for North Dakota* and in *Debates and Proceedings of the North Dakota Constitutional Convention*. The debates and actions of the legislature are chronicled in the *Journal of the Council of Legislative Assembly of the Territory of Dakota* and the *Journal of the House of Representatives of the Legislative Assembly of the Territory of Dakota* (1861-1874, 1883-1889). The *Journals* were not published between 1874 and 1883. The complete *Laws of Dakota* are compiled in sixteen volumes and list all the final legislative actions.

The executive branch of the territorial government can be studied in the *Annual Reports of the Governor of Dakota Territory* (1861-1889). Although these are general reports, more specific information can be found in the biennial reports to the governor from the auditor, treasurer, superintendent of public instruction, the adjutant general, the commission of immigration and statistics, the board of railroad commissioners, board of agriculture, the board of education, director and wardens of penitentiaries, and agencies such as the hospital for the insane and school for the deaf.

Of significant value are the many primary sources to be found in *South Dakota Historical Collections*, *Collections of the State Historical Society of North Dakota*, and *North Dakota History*. Included in these are such items as memoirs, reprints of promotional literature, personal reminiscences, and documents such as the Organic Act or the Constitution of 1885.

Important information and commentary about territorial life and politics can also be found in contemporary literature such as Moses K. Armstrong, *History and Resources of Dakota, Montana and Idaho*

(1866), *History of Southwestern Dakota* (1881), *The Early Empire Builders of the Great West* (1901); Fred J. Cross, *The Freelands of Dakota* (1875), *Information for Persons Seeking a Home in the West: Dakota Territory as It Is* (1875); James S. Foster, *Outlines of History of the Territory of Dakota and Emigrants Guide to the Freelands of the Northwest* (1870); Paliston F. McClure, *Resources of Dakota* (1887), George A. Batchelder, *A Sketch of the History and Resources of Dakota Territory* (1870); Frank H. Haggerty, *A Statistical Historical and Political Abstract of Dakota Territory* (1889). Later recollections such as Edwin C. Torrey, *Early Days in Dakota* (1925), or William Rhoads, *Recollections of Dakota Territory* (1931), are important sources.

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I. GENERAL

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A chronicle of political and economic events during Dakota's first decade of territorial status; discusses relations with the Indians and frontier life.

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A survey of the major developments in the economic life of Dakota Territory.

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Goetz, Anna M., "The History of Yankton County to 1886" (Master's Thesis, University of South Dakota, 1927).

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Exhaustive history of all aspects of Dakota Territory, including detailed information on such topics as Lewis and Clark, the fur trade, Indian wars, geological data, railroads, Black Hills Gold Rush, Sioux Indian policy, care for the insane and convicts, the unprecedented floods of 1880-1881, and the statehood movement; especially important for political history since the author was a leading Republican and served as secretary at most of their meetings; a partisan work which defends the Republicans; significant as a source book since it contains almost every political document and convention resolution of the territorial periods; contains a collection of pictures and maps.

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A balanced view of life in a western Dakota town with focus on political, economic and cultural developments.

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Discusses the speculative activity of land companies, the rivalry between the Missouri River Valley and Big Sioux Valley for settlement, county settlement, livelihood in Dakota, westward movement in the Territory, the Indian question, and governmental and political development down to 1875; concludes that politically this was the era of factionalism and personalism.

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The best general discussion of all aspects of Dakota Territory; the years paralleling the territorial period cover almost half of this volume.

Unruh, John David, "South Dakota in 1889" (Ph.D. Dissertation, University of Texas, 1939).

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II. GOVERNMENT AND POLITICS.

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A survey of the political life of Governor Howard with emphasis on his pre-Dakota career in Michigan and Detroit politics and public service.

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A study of the political importance of newspapers, which traces the attempts by Governor Ordway to control the territorial press; contends that "Ordway's press" aided him in his plans to speculate in land and exploit the Territory; concludes that the uncontrolled press led by the *Yankton Press and Dakotian* brought about his political downfall.

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A survey of the statehood movement with emphasis upon the Constitutional Conventions of 1883 and 1885; stresses the sectional rather than the party struggle.

Hall, Luella J., "History of the Formation of the Counties in North Dakota," *Collections of the State Historical Society*, V (1923), 167-250.

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Discusses the Burbank administration with emphasis upon the split among Republicans on the Burbank reappointment to the Governorship because of his railroad and land activities; emphasizes the role played by Beadle in mustering forces against Burbank.

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A brief sketch of Todd's political career based on secondary sources.

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Discusses the effect of grasshopper invasions on the Dakota economy and the attempts of the Territory to curb the insects.

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Essentially an agricultural history of the Red River Valley from 1851 to 1891; based largely upon primary material; stands as the most complete history of the Valley.

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Discusses the economic significance of the railroad to northern Dakota in the 1870's and 1880's; contains useful statistical information on both the economy of Dakota and the railroad.

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Traces road building during the territorial period with a discussion of each legislative session and how it dealt with the question of road building.

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The most complete study of the Black Hills Gold Rush with emphasis upon economic and social developments.

Pulling, Hazel Adele, "History of the Range Cattle Industry of Dakota," *South Dakota Historical Collections*, XX (1940), 469-521.

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———, "The Dakota Southern, A Frontier Railway Venture of Dakota Territory," *South Dakota Historical Review*, II (April, 1937), 99-125.

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IV. SETTLEMENT, SOCIAL AND CULTURAL

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An account of Swedish immigrant settlement in Dakota with emphasis on religious and social institutions; contains some source material.

Bergman, Ruth Elizabeth, "Printing in South Dakota During the Territorial Period, With a Check List of Newspapers and Periodicals from the Beginning Through 1889" (Masters' Thesis, University of Illinois, 1936).

Surveys the history of newspaper printing in southern Dakota by regions: Southeast, Northeast, Central, Black Hills; lists each paper with publisher, political outlook, and pertinent facts; contains a check list of all southern Dakota newspapers on an annual basis.

Bleskestad, Inga Theodora, "Territorial School Days in Pennington County, 1876-1890" (Master's Thesis, University of Colorado, 1941).

A case study of education on the county level during territorial days with emphasis upon social development; brief mention of the role of territorial government in education.

Cook, William A., "Early History of the University of South Dakota," *South Dakota Historical Collections*, XIII (1926), 181-249.

A history of the University of Dakota from 1862 through 1887, based primarily on newspapers and university publications; emphasizes the internal history of the institution with some mention of the politics involved in establishing the University.

Cummins, Cedric, "The University of Dakota: Higher Learning on the High Plains," *North Dakota History*, XXXIV (Summer, 1967), 243-257.

Traces the history of the institution from 1862 to 1889; some discussion of territorial politics as it related to education.

De Jong, Gerald F., "The Dutch in Emmons County," *North Dakota History*, XXIX (July, 1962), 253-265.

A description of Dutch immigration to Dakota and the role of territorial government in the promotion of immigration; based upon Dutch newspapers; emphasizes religious, social and economic life in Dakota.

Dick, Everett, *The Sod-House Frontier, 1854-1890* (New York: Appleton-Century Co., 1937).

A social history of the Northern Plains which explores all facets of life; many references to early settlement and frontier life in Dakota.

Geiger, Louis G., *University of the Northern Plains, A History of the University of North Dakota, 1883-1958* (Grand Forks: University of North Dakota Press, 1958).

The first ninety pages cover the territorial period with discussion of territorial politics and the role it played in the institution's history.

Gering, John J., "The Swiss-Germans of Southeastern South Dakota," *South Dakota Historical Collections*, VI (1912), 351-360.

A brief survey of Swiss-German settlement with emphasis upon the reasons for migration in the 1870's.

Johnson, Sveinbjorn, "The Icelandic Settlement of Pembina County," *Collections of the State Historical Society of North Dakota*, I (1906), 89-131.

A biographical and statistical discussion of Icelandic settlement; based upon Icelandic sources.

Myhra, Thomas J., "The Social Significance of Steamboatmen on Early Bismarck," *North Dakota History*, XXX (April-July, 1963), 72-96.

A social history of a river town based primarily on Bismarck newspapers.

Plaut, W. Gunther, "Jewish Colonies at Painted Woods and Devils Lake," *North Dakota History*, XXXII (January, 1965), 59-70.

Traces the history of Jewish migration into Dakota during the period after 1882; stresses the promotion of Jewish immigration by the Immigrant Agricultural Aid Society.

Russell, William H., "Promoters and Promotion Literature of Dakota Territory," *South Dakota Historical Collections and Reports*, XXVI (1952), 434-455.

Discusses the efforts of the government, newspapers, and businessmen in the promotion of settlement; emphasizes roles played by James S. Foster and George Kingsbury.

Tarbell, Wright, "The Early and Territorial History of Codington County," *South Dakota Historical Collections and Report*, XXIV (1949), 276-469.

A detailed account of life during territorial days.

Waldo, Edna LaMoure, *Dakota* (Bismarck: Capital Publishing Co., 1932).

An informal study of territorial days through the pages of the Territory's newspapers; largely social history.

Roll Descriptions

ROLLS 1-8: JUDICIARY

These cases of the Dakota Territorial Supreme Court are but a partial record of the Court. As the extant records of the Court, they represent a nearly complete record of the cases which originated in what is now North Dakota. The Court minute book and docket journal, however, yield the complete day by day minutes of the Court and its decisions until 1885. A summary of the Court's decisions has been published in the six *Dakota Reports*. The microfilmed collection, however, includes cases which were appealed but not heard by the Court or which were not printed in the *Dakota Reports*. The cases are arranged by the date of the opinion as listed in the *Dakota Reports*, not by the date the case was filed or argued.

ROLL 1: DAKOTA TERRITORIAL SUPREME COURT.

Index, listing cases by term; December Term, 1877; May Term, 1880; May Term, 1881; October Term, 1881; May Term, 1882; October Term, 1882; May Term, 1883; May Term, 1884.

ROLL 2: DAKOTA TERRITORIAL SUPREME COURT.

May Term, 1884 (continued); October Term, 1884; February Term, 1885; March Term, 1885; May Term, 1885.

ROLL 3: DAKOTA TERRITORIAL SUPREME COURT.

May Term, 1885 (continued); October Term, 1885; February Term, 1886; May Term, 1886; October Term, 1886.

ROLL 4: DAKOTA TERRITORIAL SUPREME COURT.

October Term, 1886 (continued); February Term, 1887; May Term, 1887.

ROLL 5: DAKOTA TERRITORIAL SUPREME COURT.

May Term, 1887 (continued); February Term, 1888; May Term, 1888.

ROLL 6: DAKOTA TERRITORIAL SUPREME COURT.

May Term, 1888 (continued); October Term, 1888; February Term, 1889; May Term, 1889.

ROLL 7: DAKOTA TERRITORIAL SUPREME COURT.

May Term, 1889 (continued); June Term, 1889; October Term, 1889.

ROLL 8: DAKOTA TERRITORIAL SUPREME COURT.

Court Minute Book, 1862-1885; Court docket journal, 1862-1885.

ROLLS 9-15: LEGISLATIVE

As the extant bills of the territorial legislature, these are bills which became law. The bills and proceedings of the legislature were published in the House and Council Journals of the Legislative Assembly of Dakota; however, no journals were published for the years 1874-1883. The 1861, 1862, and 1869-1872 sessions are missing from these extant records.

- ROLL 9: DAKOTA TERRITORIAL LEGISLATURE.
Index to Council and House Bills; Council Bills, 1863-1864; Council and House Bills, 1865-1866, 1866-1867, 1867-1868, 1868-1869, 1872-1873; Council Bills, 1875.
- ROLL 10: DAKOTA TERRITORIAL LEGISLATURE.
Council Bills, 1875 (concluded); House Bills, 1875; Council and House Bills, 1877, 1879; Council Bills, 1881; House Bills, 1881.
- ROLL 11: DAKOTA TERRITORIAL LEGISLATURE.
House Bills, 1881 (concluded); Council and House Bills, 1883.
- ROLL 12: DAKOTA TERRITORIAL LEGISLATURE.
Council and House Bills, 1885; Council Bills, 1887.
- ROLL 13: DAKOTA TERRITORIAL LEGISLATURE.
Council Bills, 1887 (concluded); House Bills, 1887; Council Bills, 1889; House Bills, 1889.
- ROLL 14: DAKOTA TERRITORIAL LEGISLATURE.
House Bills, 1889 (concluded); Miscellaneous Legislative.
- ROLL 15: DAKOTA TERRITORIAL LEGISLATURE.
Miscellaneous Legislative; Undated material.

ROLLS 16-44: OFFICE OF THE GOVERNOR OF DAKOTA TERRITORY

These rolls contain the correspondence of the nine Governors of Dakota Territory. They have been arranged and filmed in accord with the original filing system. The roll content notes for each Governor contain two categories: (1) the major subject file, letters incoming and/or letters outgoing with notes which are not intended to be exhaustive but only representative of the correspondence; (2) minor subject files which include proclamations, memorials, appointments and resignations, applications and recommendations for appointive positions, extradition requisitions, applications and petitions for pardons, and official oaths and bonds. The minor subject file is listed but not described.

Rolls 42-44, the Andrew J. Faulk Papers, are separate from the Territorial Records per se. They are the property of Yale University Library and are filmed at the end of the Governors section. The Faulk Collection contains more than official correspondence of Dakota Territory.

- ROLL 16: GOVERNOR WILLIAM JAYNE, 1861-1863.
Major File: Letters received and sent: Correspondence concerning the militia; letters of appointment.
Minor File: Proclamations, Memorials, Appointments and Resignations, Applications and Recommendations for Appointive Positions, Extradition Requisitions, Official Oaths and Bonds.
- GOVERNOR NEWTON EDMUNDS, 1864-1866.
Major File: Letters received and sent: Correspondence regarding appointment of private secretary and com-

missioner of immigration; location of military road; licensing trade at Fort Berthold and Fort Union.

Minor File: Proclamations, Applications and Resignations, Applications and Recommendations for Appointive Positions, Extradition Requisitions, Official Oaths and Bonds.

GOVERNOR ANDREW FAULK, 1866-1869.

Major File Letters received and sent: Correspondence concerning the removal of member of the territorial council; request for the establishment of legal courts in Laramie County.

Minor File: Proclamations, Applications and Resignations, Applications and Recommendations for Appointive Positions, Official Oaths and Bonds, Notarial Applications, Notarial Bonds.

GOVERNOR JOHN BURBANK, 1869-1874.

Major File: Letters received: Appointment of immigration agent; immigration convention; appointment acceptances; railroad meeting report; seek internal improvements through aid from national government. Letters sent: Correspondence with Secretary of Interior seeking permission to postpone meeting of the legislature until the winter of 1870; organization of Dakota militia; problems obtaining arms and ammunition; provision of mail routes; preparation for elections at Forts; inquiry into employment for 100 Bohemian settlers (1870); account of special session of Legislature; correspondence with Secretary of State and Comptroller concerning leaves of absence and payment of salary; organization of counties and appointment of county commissioners; assignment of supreme court judges to specific districts; assassination of the Secretary of the Territory. Burbank sent more than five letters to the following: Hamilton Fish, Secretary of State; R. W. Taylor, Comptroller of the Treasury; C. Delano, Secretary of the Interior; George H. Kellogg, Territorial Auditor.

Minor File: Proclamations, Appointments and Resignations, Applications and Recommendations for Appointive Positions, Applications and Petitions for Pardons, Extradition Requisitions, Rewards, Notarial Applications, Notarial Bonds.

ROLL 17: GOVERNOR JOHN L. PENNINGTON, 1874-1878.

Major File: Letters received: Correspondence concerning location of land office in Springfield, Dakota Territory; need for organization of the Black Hills area; National Immigration Bureau suggests ways to advertise Dakota Territory; inquiries about farming conditions; problems with law and order; appeal to have Fargo designated as the seat for the third Judicial District of the U. S. Dis-

strict Court. Pennington received five letters from the following: Lee Crandall. Letters sent: Correspondence concerning the organization of county government; recommendations for the establishment of post offices; contact with Washington concerning the appointment of post masters; permission to organize militia units; information on Territory vs. Peter P. Wintermute (accused of assassinating the territorial secretary); request for arms for defense at Grand Forks (hostile Indians reported in the area); government refuses to aid those who had their crops destroyed by grasshoppers; discovery of minerals in Black Hills area which belongs to Sioux Indians; immigration of 400 Russian Mennonites; report on conditions of Indians; 1876 Treaty with Sioux Indians permits organization of Black Hills area for white settlement; arrangements with Iowa to care for Dakota's deaf, dumb, and blind; arrangements with Minnesota to accommodate Dakota insane; recommendation to comptroller for establishment of Second National Bank at Vermillion. Pennington sent more than five letters to the following: C. Delano, Secretary of the Interior; J. W. Marshall, First Assistant Postmaster General; R. W. Taylor, Comptroller of the Treasury; James H. Marr, Acting First Assistant Postmaster General; U. S. Grant, President of the United States; J. D. Cameron, Secretary of War; Zachariah Chandler, Secretary of the Interior; J. P. Kidder, Territorial Supreme Court judge.

Minor File: Appointments and Resignations, Treaty Rights, Applications and Petitions for Pardons, Extradition Requisitions, Rewards, Official Oaths and Bonds, Notarial Applications, Notarial Bonds.

GOVERNOR WILLIAM HOWARD, 1878-1880.

Major File: Letters received: Proposal for a bill to change the territorial corporation law to encourage railroad building within the territory; inquiries concerning the amount of immigration into Dakota Territory; arrangements for care of handicapped children and inquiries concerning territorial responsibilities for care of children.

ROLL 18: GOVERNOR WILLIAM HOWARD (continued).

Letters sent: Organization of counties; arrangements for the insane; arrangements for convicts; plea for more federal appropriations for the Territory; reference to the activities of the Indian Bureau; petitions for the establishment of post offices; legal advice concerning such subjects as land claims. Howard sent more than five letters to the following: Carl Schurz, Secretary of the Interior; A. G. Porter, Comptroller of the Treasury; Rutherford B. Hayes, President of the United States.

Minor File: Proclamations, Appointments and Resignations, Applications and Recommendations, Applications and Petitions for Pardons, Rewards, Official Oaths and Bonds, Notarial Applications, Notarial Bonds, Extradition Requisitions.

ROLL 19: GOVERNOR NEHEMIAH G. ORDWAY, 1880-1884.

Major File: Letters received: Correspondence concerning county organization; applications for notary public; letters from England concerning immigration and land purchased in Dakota Territory. Letters sent: A report to the Secretary of the Interior on the progress and development of the territory including a statement on railroad facilities in the territory; a report on mining and mining companies in Dakota; Indian policies and utilization of Indian labor; problem with school lands; recommendation for doubling the size of the territorial legislature, complaint of insufficient appropriations by Congress; need for territorial penitentiary and insane asylum; summary of financial condition of the territory; correspondence concerning county organization and appointment of commissioners; problem with payment of freight for arms and ammunition needed for defense against the Indians. Ordway sent more than five letters to the following: Joseph Nicholson, Superintendent, House of Correction, Detroit, Michigan; William Lawrence, First Comptroller of the Treasury.

ROLL 20: GOVERNOR NEHEMIAH G. ORDWAY (continued).

Minor File: Notarial Oaths and Bonds.

ROLL 21: GOVERNOR NEHEMIAH G. ORDWAY (continued).

Minor File: Notarial Oaths and Bonds; Notarial Applications and Recommendations.

ROLL 22: GOVERNOR NEHEMIAH G. ORDWAY (continued).

Minor File: Notarial Applications and Recommendations.

ROLL 23: GOVERNOR NEHEMIAH G. ORDWAY (continued).

Minor File: Notarial Applications and Recommendations.

ROLL 24: GOVERNOR NEHEMIAH G. ORDWAY (continued).

Minor File: Notarial Applications and Recommendations and Extradition Requisitions.

ROLL 25: GOVERNOR NEHEMIAH G. ORDWAY (continued).

Minor File: Extradition Requisitions.

GOVERNOR GILBERT H. PIERCE, 1884-1887.

Major File: Letters received (to October 29, 1884): Immigrants request information on Dakota Territory; railroads' response to request for advertising in the "Dakota Pamphlet"; requests to open up Crow Creed Reservation (Benjamin Harrison plans trip to Dakota as Chairman of Indian Affairs of the Senate); arrangements for Dakota Territory exhibit at Fair in New

Orleans; correspondence concerning Dakota Hospital for the insane; correspondence from the secretary of the Grand Forks Chamber of Commerce concerning affairs at the University; charges brought against James Twamley at the University of North Dakota; correspondence with Cattle Growers Association (report of 1886 meeting concerned with diseased cattle in the territory); responses to Governor's veto of women's suffrage bill; inquiry about the temperance education law; request for information on forming military companies; letters of introduction; invitations to visit different parts of the territory. Pierce received more than five letters from the following: Rand McNally & Co.

- ROLL 26: GOVERNOR GILBERT A. PIERCE (continued).
Letters received: (October 29, 1884-November 16, 1885).
- ROLL 27: GOVERNOR GILBERT A. PIERCE (continued).
Letters received: (November 16, 1885-May 12, 1886).
- ROLL 28: GOVERNOR GILBERT A. PIERCE (continued).
Letters sent: (To December 18, 1886) Promotion of Dakota Territory by distributing the "Dakota Pamphlet" (1500 copies ordered by railroads); explanations given for granting or not granting pardons; correspondence with Attorney General and President regarding settlement of land on the Winnebago and Crow Creek reservations (Senate Committee on Indian Affairs plans to visit the reservations); arrangements made to send blind persons to Iowa College of the Blind; investigation involving the Board of Regents at the University of North Dakota; burning of normal school building at Madison; arrangements made for taking Dakota Territory Census; correspondence concerning leasing of school lands and county organization matters; report of the public indebtedness of the territory; inquiry into prohibition legislation in the territory. Pierce sent more than five letters to the following: Rand McNally & Co., publishers of the "Dakota Pamphlet"; George Rice, Attorney General of the United States; L. Q. C. Lamar, Secretary of the Interior; Thomas S. Free, Adjutant General of the United States; Benjamin Harrison, United States Senator; Robert B. Fisk; Lauren Dunlap; A. T. Packard; Captain H. B. Simington.
- ROLL 29: GOVERNOR GILBERT A. PIERCE (continued).
Minor File: Applications and Recommendations, Recommendations for Educational Places, Penitentiary, and Board of Health, Appointments and Resignations, Applications for Pardons, Official Oaths and Bonds.
- ROLL 30: GOVERNOR GILBERT A. PIERCE (continued).
Minor File: Official Oaths and Bonds, Notarial Oaths and Bonds.

- ROLL 31: GOVERNOR GILBERT A. PIERCE (continued).
Minor File: Official Oaths and Bonds, Notarial Applications and Recommendations.
- ROLL 32: GOVERNOR GILBERT A. PIERCE (continued).
Minor File: Notarial Applications and Recommendations, Rewards, Extradition Requisitions.
- ROLL 33: GOVERNOR GILBERT A. PIERCE (continued).
Minor File: Extradition Requisitions.
GOVERNOR LOUIS K. CHURCH, 1887-1889.
Major File: Letters received (to December 30, 1887): Correspondence concerning the rental of school lands, Indian depredation claims; warning on coming Indian uprisings; complaint about Indian hunts in the Badlands; recommendations for new legislation; money for sufferers in 1888 Dakota blizzard; farmers request aid from government for grain for spring seeding; investigation of Yankton Insane Asylum; replies to governor's request for reports from institutions; report from state normal school at Madison; building of normal school at Spearfish; protests against law prohibiting aliens from buying land in Dakota Territory; correspondence promoting admission of Dakota as one state; requests for compiled Laws of Dakota Territory; correspondence with territorial delegate and newspaper editors discussing politics on local and national level. Church received more than five letters from the following: N. N. Tyner, Adjutant General; Homer Sprague, President of the University of North Dakota; J. E. Jenkins, Adjutant General; P. F. McClure; William T. McLaughlin; C. N. Harris; W. H. Quigley; W. W. Shegre.
- ROLL 34: GOVERNOR LOUIS K. CHURCH (continued).
Letters received: (December 30, 1887-March 9, 1888).
Letters sent: (to March 9, 1887) Message to Council giving advice on topics which should be considered; reasons giving for signing or vetoing legislative bills, dismissal of trustees from Dakota hospital for the insane near Yankton; investigation of school of mines in Rapid City; report concerning investigation of the Jamestown Hospital for the Insane; correspondence concerning militia affairs; articles from institutions within the state for a report to the Department of Interior; disagreement over Northern Pacific Railroad gross earnings tax; aid to distressed farmers; cattle quarantine. Church sent more than five letters to the following: President of the Council of Dakota Territory; Speaker of the House of Dakota Territory; N. N. Tyner, Adjutant General; L. Q. C. Lamar, Secretary of the Interior; C. F. Templeton, Attorney General; F. L. Van Tassel; Eugene A. Dye.
- ROLL 35: GOVERNOR LOUIS K. CHURCH (continued).
Letters sent: (March 9, 1887-July 27, 1888).

- ROLL 36: GOVERNOR LOUIS K. CHURCH (continued).
Letters sent: (July 27, 1888-February 9, 1889).
- ROLL 37: GOVERNOR LOUIS K. CHURCH (continued).
Letters sent: (February 9, 1889-September 7, 1889).
- ROLL 38: GOVERNOR LOUIS K. CHURCH (continued).
Minor File: Notarial Oaths and Bonds, Notarial Applications.
- ROLL 39: GOVERNOR LOUIS K. CHURCH (continued).
Minor File: Notarial Applications, Extradition Requisitions.
GOVERNOR ARTHUR C. MELLETTE, 1889.
Minor File: Proclamations, Applications and Petitions for Pardons.
- ROLL 40: GOVERNOR ARTHUR C. MELLETTE (continued).
Minor File: Applications and Petitions for Pardons, Notarial Oaths and Bonds, Notarial Applications, Pardons, Appointments and Recommendations.
- ROLL 41: GOVERNOR ARTHUR C. MELLETTE (continued).
Minor File: Appointments and Recommendations.
Major File: Letters sent: Letters of recommendation; report to President Harrison on results of election for ratification of state constitution; report of governor to Secretary of Interior concerning climate and state institutions; Extradition Requisitions.
- ROLL 42: ANDREW J. FAULK PAPERS
This roll contains the papers of Andrew J. Faulk for his years as Governor of Dakota Territory. Faulk's general correspondence for the years 1866-1869 includes both his official correspondence as governor and correspondence with friends and relatives. Faulk sent or received five or more letters from the following persons: Walter A. Burleigh, Territorial Delegate; Enos Stutsman, friend and Speaker of the House; John H. Broohead, friend; Thomas B. Faulk, son. Also includes Faulk's accounts as governor, reports and veto messages, and his correspondence and accounts as Superintendent of Indian Affairs.
- ROLL 43: ANDREW J. FAULK PAPERS
Faulk's official papers are concluded on this roll. This roll includes Faulk's accounts and receipts as Superintendent of Indian Affairs, and correspondence during 1871-1876 concerning those accounts. Faulk's personal receipts for the years 1866-1869 are also included.
Non-official papers of Andrew Faulk comprise most of this roll. His correspondence covers the years 1835-1866 and 1869-1896. During these years Faulk sent or received five or more letters from the following: Walter A. Burleigh, Territorial Delegate; Thomas B. Faulk, son; M. K. Armstrong, Territorial Delegate; Andrew Burleigh, grandson; George Ordway, Territorial Auditor; H. A. Humphrey, editor, *Faulkton Times*; Charlotte, daughter; Pet, relative;

John H. Broohead, friend; B. C. Moody; P. C. Shannon; J. Z. Kelly; W. E. Chandler; James M. Stone; J. H. Wicker. Also on this roll are four account books for the years 1861-1866, an 1865 account book for the Laytonia Coal Co. of which Faulk was superintendent, and Faulk's personal receipts for the years 1852-1866 and 1871-1886. The records Faulk kept as clerk of the district court for the years 1874-1882 begin on this roll.

ROLL 44: ANDREW J. FAULK PAPERS

The district court records for 1874-1882 conclude on this roll. Account books for the years 1875-1881, memoranda, notes commission, deeds, and miscellaneous material.

ROLLS 45-59: CORRESPONDENCE OF THE
SECRETARY OF DAKOTA TERRITORY

The territorial secretary provided commissions, seals, and information to notaries public. He also received copies of articles of incorporation and provided information on the process of incorporation in the territory. The secretary responded to requests for copies of laws and information on existing law, and provided information on territorial officers, election returns, insurance policies, and statistical data.

The secretaries' incoming correspondence appears first in chronological order, followed by the outgoing correspondence. A letter press volume of incoming correspondence 1861-1871, which was filmed out of order, appears on roll 48.

- ROLL 45: CORRESPONDENCE OF SECRETARIES.
George H. Hand, James H. Teller and Michael L. McCormack: incoming, January, 1875-April 15, 1885.
- ROLL 46: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack incoming, April 16, 1885-May 3, 1886.
- ROLL 47: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack: incoming, May 3, 1886-December 18, 1886.
- ROLL 48: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack and Luther B. Richardson: incoming, December 18, 1886-July 6, 1889; Solomon L. Spink, Turney M. Wilkins, and George A. Batchelder: incoming, 1861-1871.
- ROLL 49: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack and Luther B. Richardson: incoming, 1886-1889; One letter press volume of outgoing, 1865-1889. Correspondence of Secretaries. James H. Teller, outgoing, April 20, 1883-April 21, 1883.
- ROLL 50: CORRESPONDENCE OF SECRETARIES.
James H. Teller: outgoing, April 21, 1883-August 17, 1883; Michael L. McCormack; outgoing, January 11, 1887-February 7, 1887.

- ROLL 51: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack: outgoing, February 7, 1887-April 12, 1887.
- ROLL 52: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack: outgoing, April 13, 1887-July 1, 1887.
- ROLL 53: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack: outgoing, July 1, 1887-November 4, 1887.
- ROLL 54: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack: outgoing, November 4, 1887-March 13, 1888.
- ROLL 55: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack: outgoing, March 13, 1888-July 30, 1888.
- ROLL 56: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack: outgoing, July 30, 1888-February 11, 1889.
- ROLL 57: CORRESPONDENCE OF SECRETARIES.
Michael L. McCormack and Luther B. Richardson: outgoing, February 11, 1889-May 20, 1889.
- ROLL 58: CORRESPONDENCE OF SECRETARIES.
Luther B. Richardson: outgoing, May 20, 1889-September 30, 1889.
- ROLL 59: CORRESPONDENCE OF SECRETARIES.
Luther B. Richardson: outgoing, September 30, 1889-November 5, 1889.

ROLLS 59-86: MINOR EXECUTIVE OFFICES
AND SUBJECT HEADINGS

These final rolls contain two categories: records from minor territorial offices, such as the auditor and the attorney general, and those records given topical headings such as incorporation documents and election returns. Many of the records are incomplete.

Rolls 85 and 86 contain oversize documents. The respective roll notes for the normal-size documents apply to their oversize counterparts.

- ROLL 59: DOMESTIC INCORPORATION RECORDS:
March 15, 1872-May 12, 1882.
- ROLL 60: DOMESTIC INCORPORATION RECORDS:
May 12, 1882-May 27, 1885.
- ROLL 61: DOMESTIC INCORPORATION RECORDS:
May 27, 1885-March 16, 1888.
- ROLL 62: DOMESTIC INCORPORATION RECORDS:
March 16, 1888-September 30, 1889. Foreign incorporation records: February 2, 1875-May 2, 1877.
- ROLL 63: FOREIGN INCORPORATION RECORDS:
May 2, 1877-October 20, 1880.
- ROLL 64: FOREIGN INCORPORATION RECORDS:
October 20, 1880-August 15, 1883.

- ROLL 65: FOREIGN INCORPORATION RECORDS:
August 15, 1883-April 25, 1885.
- ROLL 66: FOREIGN INCORPORATION RECORDS:
April 25, 1885-June 14, 1887.
- ROLL 67: FOREIGN INCORPORATION RECORDS:
June 14, 1887-November 4, 1889.
- ELECTION AND COUNTY RECORDS:
November 5, 1877-General election; November 4, 1878-general election; September 9, 1879-consolidation of Hanson and Davison Counties; November 2, 1880-general election; March 8, 1881-Ballotting on incorporation of Parker, D. T. and election of officers; May 2, 1881-Division of Grand Forks County; May 16, 1881-Burleigh County special election for Justice of the Peace and funding indebtedness; May 14, 1881-Bonds for Court House and Poor Farm; October 11, 1881-Division of Hanson and Davison Counties; November, 1881-General election; March, 1882-Special election for Justices of the Peace; November, 1882-General Election; April 3, 1883-the establishment of Fall River County; June 2, 1885-issuance of bonds, Eddy County, November, 1885-annual election; April 12, 1886-organization of Billings County; November, 1886-general election; November, 1887-election on division of Territory; November, 1888-County officers, Pierce County; May 14, 1889-delegates to the North Dakota constitutional convention; general correspondence about elections and returns to May 22, 1887.
- ROLL 69: ELECTION RETURNS (continued):
November 8, 1888.
- ROLL 70: ELECTION RETURNS (continued):
1885 CENSUS:
County census for 1885, which includes requests for payment by the enumerator; correspondence between the two census directors, Edwards of Bismarck and Robert Fisk of East Pierre, with Governor Pierre; instructions on taking of the census schedule of payments to the enumerators.
- CAPITOL LOCATION:
1883-1887, Letters pertaining to capitol location, statements, bills and receipts of public building construction in Bismarck; telegrams from constituents concerning a capitol change; specifications for the capitol building.
- TERRITORIAL AUDITOR:
1871-1877, Correspondence of the Auditor's Office; reports for 1873-1874, 1876-1878; particularly concerned with insurance correspondence; 1888-1889, Auditor's appropriation ledger with index; 1881-1889, Dakota Territory Bond Register, final date August 13, 1887.
- ROLL 71: TERRITORIAL AUDITOR (continued):
1862-1889, Correspondence between the Territorial Attorney General and Washington officials; authorization of payments to state official transacting attorney general's business.

COMMISSIONER OF AGRICULTURE AND LABOR:

1886-1889, Commissioner of Agriculture and Labor stock brand certificates; certificate of cattle brands.

TERRITORIAL BOARDS:

Annual reports of valuation of Dakota Southern Railroad Company, 1873-1879, and other railroads operating in Dakota Territory; 1887, bond notices of elevator companies.

PUBLIC EXAMINER:

1887, Public Examiner's reports; correspondence with Governor Church regarding the districts under their supervision; transcript of the investigation of the Dakota Hospital for the Insane in Yankton.

ROLL 72: PUBLIC EXAMINER (continued):

1887-1889, Continued correspondence of the investigation at Yankton; Church's actions.

MISCELLANEOUS CORRESPONDENCE:

1881-1889, Governors to Secretary of State and other National officials; local officials to territorial officials; letter from President Arthur establishing boundary lines in Dakota Territory; correspondence received by the Governors, the Adjutant General's office for 1888.

ROLL 73: NOTARIES PUBLIC:

Correspondence regarding the appointment of notaries public; letterbook of notaries public; 1881-1889, list of those appointed, date of appointment, residence and expiration of appointment.

DEPARTMENT OF PUBLIC INSTRUCTION:

1879-1888, Correspondence with the governors; biennial reports.

ROLL 74: PUBLIC HEALTH:

Reports and correspondence from Superintendent of public health; correspondence dealing with veterinary problems; reports and correspondence of the territorial veterinary surgeon; petitions for compensation of animals destroyed.

SCHOOLS AND COLLEGES:

1869-1887, Correspondence received regarding the care of the blind, deaf, dumb and insane.

ROLL 75: SCHOOLS AND COLLEGES (continued):

By-laws of the regents of the University of North Dakota; correspondence to governor from educational institutions.

HOSPITAL FOR THE INSANE:

1875-1889, Correspondence received regarding establishment of the hospital for the insane; building plans for additions to Hospital for the Insane at Yankton; transcript of testimony of investigation of the North Dakota Hospital of the Insane in Jamestown (1888).

PENITENTIARY:

1870-1882, Correspondence received regarding placement of

offenders in out-of-state penitentiaries; 1882-1889, correspondence received regarding Dakota Territorial Penitentiary at Sioux Falls.

ROLL 76: PENITENTIARY (continued):

1883, First annual report of the Dakota Penitentiary at Sioux Falls.

COUNTY GOVERNMENT:

1873, Correspondence to governors requesting appointment of commissions to various counties; correspondence regarding the organization of Morton and other counties.

ROLL 77: COUNTY GOVERNMENT (continued):

1882-1889, Correspondence regarding formation of new counties and appointment of commissioners; certifications of county elections; 1875-1883, correspondence of county clerks and registers of deeds, usually to the territorial auditor; 1882, bonds for deeds, for the Elk Valley Farming Company; 1873-1889, correspondence received regarding formation of townships, establishment of boundaries; 1869-1888, abstract of assessment rolls; individual county reports on values of lands, townlots, and personal property.

MILITARY RECORDS:

1861-January 22, 1866, Correspondence received and sent regarding the military in Dakota Territory; topics of the correspondence include command assignments, requisitions for arms, requests for troops; formation of militia units, troubles with Indians, expeditions to the Black Hills, location of roads.

ROLL 78: MILITARY RECORDS (continued):

January 22, 1866-July 15, 1885.

ROLL 79: MILITARY RECORDS (continued):

July 15, 1885-April 27, 1887.

ROLL 80: MILITARY RECORDS (continued):

April 27, 1887-1889.

POST OFFICES:

General correspondence concerning individual post offices and mail service, appointments of postmasters, to July 27, 1874.

ROLL 81: FEDERAL-TERRITORIAL RELATIONS:

June 15, 1861-September 10, 1888, Correspondence concerning primarily the administration of territorial government; instructions from the Secretaries of State and Interior; answers to requests for advice; July 29, 1861-June 30, 1888, correspondence concerning territorial finances, deposits in territorial accounts, proper disbursement of funds.

ROLL 82: ALIENS AND CONSULS:

July 29, 1869-September 12, 1888, Correspondence concerning aliens in the U. S.; appointments of foreign consuls.

EXHIBITIONS AND FAIRS:

March 29, 1871-July 12, 1887, Correspondence concerning

various state and national exhibitions, fairs, including the U. S. centennial celebration.

CONTESTED ELECTIONS:

Documents pertinent to the election contests between Wallace and Smith, Bected and Stong, Wilson and Lamar, Winship and Walsh.

ROLL 83: RAILROADS:
July 11, 1879-August 14, 1889, Primarily resolutions from various railways accepted the provisions of an act entitled "an act providing for the levy and collection of taxes upon property railroad companies in this Territory," passed March 7, 1889.

ROLL 84: INSURANCE:
May 25, 1887-June 26, 1887, Insurance policies on territorial buildings and approval of them signed by the governor.

AFFIDAVITS OF PUBLICATION:

April 27, 1889-October 8, 1889, Clippings of the newspaper publication of bank and building and loan financial statements, as required by law.

MURDER TRIALS:

1876-1877, Documents relating to several district court murder trials.

ROLL 85: OVERSIZED DOCUMENTS:
Election returns, census, capitol, territorial auditor, miscellany, schools and colleges, hospital for the insane.

ROLL 86: OVERSIZED DOCUMENTS (continued):
Hospital for the insane and penitentiary, counties, townships, abstract of assessment roll, military, treasury department.